

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 922
90TH GENERAL ASSEMBLY

Reported from the Committee on Retirement, April 12, 2000, with recommendation that the House Committee Substitute for Senate Bill No. 922 Do Pass.

ANNE C. WALKER, Chief Clerk

4240L.05C

AN ACT

To repeal sections 70.605, 70.661, 70.680, 70.685, 86.203, 86.207, 86.210, 86.213, 86.217, 86.220, 86.227, 86.237, 86.240, 86.243, 86.247, 86.250, 86.257, 86.263, 86.270, 86.277, 86.288, 86.290, 86.293, 86.297, 86.300, 86.303, 86.307, 86.310, 86.313, 86.317, 86.323, 86.327, 86.330, 86.337, 86.340, 86.343, 86.344, 86.350, 86.353, 86.357, 86.360, 86.364, 86.365, 86.366, 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730, 86.780, 87.230, 87.237, 169.280, RSMo 1994, and sections 70.655, 70.675, 86.200, 86.248, 86.251, 86.252, 86.253, 86.254, 86.255, 86.256, 86.260, 86.267, 86.280, 86.283, 86.287, 86.320, 86.354, 86.440, 86.441, 86.447, 86.483, 86.750, 86.770, 104.090, 104.110, 104.371, 104.374, 160.420, 169.270, 169.291, 169.315, 169.324, 169.410, 476.690 and 513.430, RSMo Supp. 1999, relating to retirement benefits, and to enact in lieu thereof ninety new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 70.605, 70.661, 70.680, 70.685, 86.203, 86.207, 86.210, 86.213, 86.217, 86.220, 86.227, 86.237, 86.240, 86.243, 86.247, 86.250, 86.257, 86.263, 86.270, 86.277, 86.288, 86.290, 86.293, 86.297, 86.300, 86.303, 86.307, 86.310, 86.313, 86.317, 86.323, 86.327, 86.330, 86.337, 86.340, 86.343, 86.344, 86.350, 86.353, 86.357, 86.360, 86.364, 86.365, 86.366, 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730, 86.780, 87.230, 87.237, 169.280, RSMo 1994, and sections 70.655, 70.675, 86.200, 86.248, 86.251, 86.252, 86.253, 86.254, 86.255, 86.256, 86.260, 86.267, 86.280, 86.283, 86.287, 86.320, 86.354, 86.440, 86.441, 86.447, 86.483, 86.750, 86.770, 104.090, 104.110, 104.371, 104.374, 160.420, 169.270, 169.291, 169.315, 169.324, 169.410, 476.690 and 513.430, RSMo Supp. 1999, are repealed and ninety new sections enacted in lieu thereof, to be known as sections 50.1175, 70.605, 70.655, 70.661, 70.675, 70.680, 70.685, 86.200, 86.203, 86.207, 86.210, 86.213, 86.217, 86.220, 86.227, 86.237, 86.240, 86.243, 86.247, 86.248, 86.250, 86.251, 86.252, 86.253, 86.254, 86.255, 86.256, 86.257, 86.260, 86.263, 86.267, 86.270, 86.277, 86.280, 86.283, 86.287, 86.288, 86.290, 86.292, 86.293, 86.297, 86.300, 86.303, 86.307, 86.310, 86.313, 86.320, 86.330, 86.337, 86.340, 86.343, 86.344, 86.350, 86.353, 86.354, 86.357, 86.360,

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

86.364, 86.365, 86.366, 86.403, 86.433, 86.437, 86.440, 86.441, 86.442, 86.447, 86.483, 86.493, 86.675, 86.730, 86.750, 86.770, 86.780, 87.230, 87.237, 104.090, 104.110, 104.371, 104.374, 160.420, 169.270, 169.280, 169.291, 169.315, 169.324, 169.410, 169.569, 476.690 and 513.430, to read as follows:

50.1175. The right of a person to an annuity, pension benefit, funds, retirement allowance, right to a return on accumulated contributions, allowance options, property, or right created by or accrued, accruing or paid to any person pursuant to sections 50.1000 to 50.1300, including any defined contribution account created pursuant to sections 50.1210 to 50.1260 and any deferred compensation plan created pursuant to section 50.1300 shall not be subject to execution, garnishment, attachment, writ of sequestration, the operation of bankruptcy or insolvency laws, a qualified domestic relations order as defined in 26 U.S.C. Section 414(p) or 29 U.S.C. Section 1056(d), or any other domestic relations order or to any other claim or process of law whatsoever except for the collection of child support and maintenance after a member begins receiving payments, and shall be unassignable except as specifically provided in sections 50.1000 to 50.1300.

70.605. 1. For the purpose of providing for the retirement or pensioning of the officers and employees and the widows and children of deceased officers and employees of any political subdivision of the state, there is hereby created and established a retirement system which shall be a body corporate, which shall be under the management of a board of trustees herein described, and shall be known as the "Missouri Local Government Employees' Retirement System". Such system may sue and be sued, transact business, invest funds, and hold cash, securities, and other property. The system shall begin operations on the first day of the calendar month next following sixty days after the date the board of trustees has received certification from ten political subdivisions that they have elected to become employers.

2. The general administration and the responsibility for the proper operation of the system is vested in a board of trustees of seven persons: three persons to be elected as trustees by the members of the system; three persons to be elected trustees by the governing bodies of employers; and one person, to be appointed by the governor, who is not a member, retirant, or beneficiary of the system and who is not a member of the governing body of any political subdivision.

3. Trustees shall be chosen for terms of four years from the first day of January next following their election or appointment, except that of the first board shall all be appointed by the governor by and with the consent of the senate, as follows:

(1) Three persons who are officers or officials of political subdivisions, one for a term of three years, one for a term of two years, and one for a term of one year; and

(2) Three persons who are employees of political subdivisions and who would, if the subdivision by which they are employed becomes an employer, be eligible as members, one for a term of three years, one for a term of two years, and one for a term of one year; and

(3) That person appointed by the governor under the provisions of subsection 2 of this section. All the members of the first board shall take office as soon as appointed by the governor, but their terms shall be computed from the first day of January next following their appointment, and only one member may be from any political subdivision or be a policeman or fireman.

4. Successor trustees elected or appointed as member trustees shall be members of the retirement system; provided, that not more than one member trustee shall be employed by any one employer, and not more than one member trustee shall be a policeman, and not more than one member trustee shall be a

fireman.

5. Successor trustees elected as employer trustees shall be elected or appointed officials of employers and shall not be members of the retirement system; provided, that not more than one employer trustee shall be from any one employer.

6. An annual meeting of the retirement system shall be called by the board in the last calendar quarter of each year in Jefferson City, or at such place as the board shall determine, for the purpose of electing trustees and to transact such other business as may be required for the proper operation of the system. Notice of such meeting shall be sent by registered mail to the clerk or secretary of each employer not less than thirty days prior to the date of such meeting. The governing body of each employer shall certify to the board the name of one delegate who shall be an officer of the employer, and the members of the employer shall certify to the board a member of the employer to represent such employer at such meeting. The delegate certified as member delegate shall be elected by secret ballot by the members of such employer, and the clerk or secretary of each employer shall be charged with the duty of conducting such election in a manner which will permit each member to vote in such election. Under such rules and regulations as the board shall adopt, approved by the delegates, the member delegates shall elect a member trustee for each such position on the board to be filled, and the officer delegates shall elect an employer trustee for each such position on the board to be filled.

7. In the event any member trustee ceases to be a member of the retirement system, or any employer trustee ceases to be an appointed or elected official of an employer, or becomes a member of the retirement system, or if the trustee appointed by the governor becomes a member of the retirement system or an elected or appointed official of a political subdivision, or if any trustee fails to attend three consecutive meetings of the board, unless in each case excused for cause by the remaining trustees attending such meeting or meetings, he **or she** shall be considered as having resigned from the board and the board shall, by resolution, declare his **or her** office of trustee vacated. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled; provided, however, that the remaining trustees may fill employer and member trustee vacancies on the board until the next annual meeting.

8. Each trustee shall be commissioned by the governor, and before entering upon the duties of his **or her** office, shall take and subscribe to an oath or affirmation to support the Constitution of the United States, and of the state of Missouri, and to demean himself **or herself** faithfully in his **or her** office. Such oath as subscribed to shall be filed in the office of the secretary of state of this state.

9. Each trustee shall be entitled to one vote in the board of trustees. Four votes shall be necessary for a decision by the trustees at any meeting of the board of trustees. Four trustees, of whom at least two shall be member trustees and at least two shall be employer trustees, shall constitute a quorum at any meeting of the board. Unless otherwise expressly provided herein, a meeting need not be called or held to make any decision on a matter before the board. Each member must be sent by the executive secretary, a copy of the matter to be decided with full information from the files of the board. The concurring decisions of four trustees may decide the issue by signing a document declaring their decision and sending the written instrument to the executive secretary, provided that no other trustee shall send a dissenting decision to the executive secretary within fifteen days after the document and information was mailed to him. If any trustee is not in agreement with the four trustees, the matter is to be passed on at a regular board meeting or a special meeting called for that purpose. The board shall hold regular meetings at least once each quarter, the dates of these meetings to be designated in the rules and regulations adopted by the

board. Other meetings as deemed necessary may be called by the chairman or by any four trustees acting jointly.

10. The board of trustees shall elect one of their number as chairman, and one of their number as vice chairman, and shall employ an executive secretary, not one of their number, who shall be the executive officer of the board. Other employees of the board shall be chosen only upon the recommendation of the executive secretary.

11. The board shall appoint an actuary or a firm of actuaries as technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary or actuaries shall perform such duties as are required of him or them under sections 70.600 to [70.760] **70.755**, and as are from time to time required by the board.

12. The board may appoint an attorney at law or firm of attorneys at law to be the legal advisor of the board and to represent the board in all legal proceedings.

13. The board may appoint an investment counselor to be the investment advisor of the board.

14. The board shall from time to time, after receiving the advice of its actuary, adopt such mortality and other tables of experience, and a rate or rates of regular interest, as shall be necessary for the actuarial requirements of the system, and shall require its executive secretary to keep in convenient form such data as shall be necessary for actuarial investigations of the experience of the system, and such data as shall be necessary for the annual actuarial valuations of the system.

15. The board shall keep a record of its proceedings, which shall be open to public inspection. It shall prepare annually and render to each employer a report showing the financial condition of the system as of the preceding June thirtieth. The report shall contain, but shall not be limited to, a financial balance sheet; a statement of income and disbursements; a detailed statement of investments acquired and disposed of during the year, together with a detailed statement of the annual rates of investment income from all assets and from each type of investment; an actuarial balance sheet prepared by means of the last valuation of the system, and such other data as the board shall deem necessary or desirable for a proper understanding of the condition of the system.

16. The board of trustees shall, after reasonable notice to all interested parties, **conduct administrative hearings to** hear and decide questions arising from the administration of sections 70.600 to [70.760] **70.755**; except, that **such hearings may be conducted by a hearing officer who shall be appointed by the board. The hearing officer shall preside at the hearing and hear all evidence and rule on the admissibility of evidence. The hearing officer shall make recommended findings of fact and may make recommended conclusions of law to the board. All final orders or determinations or other final actions by the board shall be approved in writing by at least four members of the board. Any board member approving in writing any final order, determination, or other final action, who did not attend the hearing, shall do so only after certifying that he or she reviewed all exhibits and read the entire transcript of the hearing.** Within thirty days after a decision or order **or final action of the board**, any member, retirant, beneficiary or political subdivision adversely affected by that determination or order **or final action** may take an appeal under the provisions of chapter 536, RSMo.

17. The board shall arrange for adequate surety bonds covering the executive secretary and any other custodian of the funds or investments of the board. When approved by the board, said bonds shall be deposited in the office of the secretary of state.

18. The board shall arrange for annual audits of the records and accounts of the system by a

certified public accountant or by a firm of certified public accountants. The state auditor shall examine such audits at least once every three years and report to the board and the governor.

19. The headquarters of the retirement system shall be in Jefferson City.

20. The board of trustees shall serve as trustees without compensation for their services as such; except that each trustee shall be paid for any necessary expenses incurred in attending meetings of the board or in the performance of other duties authorized by the board.

21. Subject to the limitations of sections 70.600 to [70.760] **70.755**, the board shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the retirement system.

70.655. 1. Upon a member's retirement he **or she** shall receive an allowance for life in accordance with the applicable benefit program elected by his **or her** employer, as follows:

(1) Benefit program L-1. A member with credited service covered by benefit program L-1 shall receive an allowance for life equal to one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service.

(2) Benefit program L-3. A member with credited service covered by benefit program L-3 shall receive an allowance for life equal to one and one-quarter percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service.

(3) Benefit program LT-4. A member with credited service covered by benefit program LT-4 shall receive an allowance for life equal to one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger [(i) than the federal Social Security's minimum age for an immediate retirement benefit and (ii)] than age sixty-two, then such member shall receive a temporary allowance equal to one percent of his **or her** average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the [earliest] **earlier** of the following events occurs: such member's death; [or his attainment of such Social Security minimum age;] or his **or her** attainment of age sixty-two.

(4) Benefit program LT-5. A member with credited service covered by benefit program LT-5 shall receive an allowance for life equal to one and one-quarter percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger [(i) than the federal Social Security's minimum age for an immediate retirement benefit and (ii)] than age sixty-two, then such member shall receive a temporary allowance equal to three-quarters of one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the [earliest] **earlier** of the following events occurs: such member's death; [or his attainment of such Social Security minimum age;] or his **or her** attainment of age sixty-two.

(5) Benefit program L-6. [Benefit program L-6 may cover employment in a position only if such position is not concurrently covered by federal Social Security; in addition, if such position was previously covered by federal Social Security, benefit program L-6 may cover only employment rendered after cessation of federal Social Security coverage.] A member with credited service covered by benefit program L-6 shall receive an allowance for life equal to two percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service.

(6) Benefit program L-7. A member with credited service covered by benefit program L-7 shall receive an allowance for life equal to one and one-half percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service.

(7) Benefit program LT-8. A member with credited service covered by benefit program LT-8 shall receive an allowance for life equal to one and one-half percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger [(i) than the federal Social Security's minimum age for an immediate retirement benefit and (ii)] than age sixty-two, then such member shall receive a temporary allowance equal to one-half of one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the [earliest] **earlier** of the following events occurs: such member's death; [or his attainment of such Social Security minimum age;] or his **or her** attainment of age sixty-two.

(8) Benefit program LT-4(65). A member with credited service covered by benefit program LT-4(65) shall receive an allowance for life equal to one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or his **or her** attainment of age sixty-five.

(9) Benefit program LT-5(65). A member with credited service covered by benefit program LT-5(65) shall receive an allowance for life equal to one and one-quarter percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to three-quarters of one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or his **or her** attainment of age sixty-five.

(10) Benefit program LT-8(65). A member with credited service covered by benefit program LT-8(65) shall receive an allowance for life equal to one and one-half percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to one-half of one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or his **or her** attainment of age sixty-five.

(11) Benefit program L-9. A member with credited service covered by benefit program L-9 shall receive an allowance for life equal to one and six-tenths percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service.

(12) Benefit program LT-10(65). A member with credited service covered by benefit program LT-10(65) shall receive an allowance for life equal to one and six-tenths percent of his **or her** final average

salary multiplied by his **or her** number of years of such credited service. In addition, if such member is retiring as provided in section 70.645 or section 70.650 or section 70.670, and if such member's age at retirement is younger than age sixty-five, then such member shall receive a temporary allowance equal to four-tenths of one percent of his **or her** final average salary multiplied by his **or her** number of years of such credited service. Such temporary allowance shall terminate at the end of the calendar month in which the earlier of the following events occurs: such member's death; or his **or her** attainment of age sixty-five.

(13) Benefit program L-11. Benefit program L-11 may cover employment in a position only if such position is not concurrently covered by federal Social Security; in addition, if such position was previously covered by federal Social Security, benefit program L-11 may cover only employment rendered after cessation of federal Social Security coverage. A member with credited service covered by benefit program L-11 shall receive an allowance for life equal to two and one-half percent of his or her final average salary multiplied by his or her number of years of such credited service.

2. If each portion of a member's credited service is not covered by the same benefit program, then his **or her** total allowance for life shall be the total of the allowance for life determined under each applicable benefit program.

3. Each employer shall have the credited service of each of its members covered by benefit program L-1 provided for in this section unless such employer shall have elected another benefit program provided for in this section.

4. Except as otherwise provided in this subsection, each political subdivision, by majority vote of its governing body, may elect from time to time to cover its members, whose political subdivision employment is concurrently covered by federal Social Security, under one of the benefit programs provided for in this section. Each political subdivision, by majority vote of its governing body, may elect from time to time to cover its members, whose political subdivision employment is not concurrently covered by federal Social Security, under one of the benefit programs provided for in this section. The clerk or secretary of the political subdivision shall certify the election of the benefit program to the board within ten days after such vote. The effective date of the political subdivision's benefit program is the first day of the calendar month specified by such governing body, or the first day of the calendar month next following receipt by the board of the certification of election of benefit program, or the effective date of the political subdivision becoming an employer, whichever is the latest. Such election of benefit program may be changed from time to time by such vote, but not more often than biennially. If such changed benefit program provides larger allowances than the benefit program previously in effect, then such larger benefit program shall be applicable to the past and future employment with the employer by present and future employees. If such changed benefit program provides smaller allowances than the benefit program previously in effect, then such changed benefit program shall be applicable only to credited service for employment rendered from and after the effective date of such change. After August 28, 1994, political subdivisions shall not elect coverage under benefit program LT-4, benefit program LT-5, or benefit program LT-8.

5. Should an employer change its election of benefit program as provided in this section, the employer contributions shall be correspondingly changed effective the same date as the benefit program change.

6. The limitation on increases in an employer's contribution provided by subsection 6 of section 70.730 shall not apply to any contribution increase resulting from an employer electing a benefit program which provides larger allowances.

7. Subject to the provisions of subsections 9 and 10 of this section, for an allowance becoming effective on September 28, 1975, or later, and beginning with the October first which is at least twelve full months after the effective date of the allowance, the amount of the allowance shall be redetermined effective each October first and such redetermined amount shall be payable for the ensuing year. Subject to the limitations stated in the next sentence, such redetermined amount shall be the amount of the allowance otherwise payable multiplied by the following percent: One hundred percent, plus two percent for each full year (excluding any fraction of a year) in the period from the effective date of the allowance to the current October first. In no event shall such redetermined amount (1) be less than the amount of the allowance otherwise payable nor (2) be more than the amount of the allowance otherwise payable multiplied by the following fraction: The numerator shall be the Consumer Price Index for the month of June immediately preceding such October first (but in no event an amount less than the denominator below) and; the denominator shall be the Consumer Price Index for the month of June immediately preceding the effective date of the allowance. As used herein, "Consumer Price Index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers, as determined by the United States Department of Labor and in effect January 1, 1975; provided, should such Consumer Price Index be restructured subsequent to 1974 in a manner materially changing its character, the board shall change the application of the Consumer Price Index so that as far as is practicable the 1975 intent of the use of the Consumer Price Index shall be continued. As used herein "the amount of the allowance otherwise payable" means the amount of the allowance which would be payable without regard to these provisions redetermining allowance amounts after retirement.

8. Subject to the provisions of subsections 9 and 10 of this section, for an allowance becoming effective on September 28, 1975, or later, the maximum allowance payable under the provisions of section 70.685 [and under the provisions of subsection 6 of section 70.680] shall be redetermined each October first in the same manner as an allowance is redetermined under the provisions of subsection 7 of this section.

9. (1) The system establishes reserves for the payment of future allowances to retirants and beneficiaries. Should the board determine, after consulting with the actuary, that the established reserves are more than sufficient to provide such allowances, the board may increase the annual increase rate provided for in subsections 7 and 8 of this section, as it applies to any allowance payable, but in no event shall the total of all redetermined amounts as of October first of any year be greater than one hundred four percent of the allowances which would have been payable that October first without such redeterminations; provided, as of any redetermination date the same annual increase rate shall be applied to all allowances with effective dates in the range of November first to October first of the following year. The board may extend the provisions of subsections 7 and 8 of this section to allowances which became effective before September 28, 1975; provided, such an action by the board shall not increase an employer contribution rate then in effect;

(2) After August 28, 1993, the annual increase rate established by this subsection shall be a compound rate, compounded annually, and the four percent annual maximum rate shall also be a compound rate, compounded annually; provided, the use of such compounding shall not begin until October 1, 1993, and shall not affect redeterminations made prior to that date.

10. Should the board determine that the provisions of subsections 7, 8 and 9 of this section are jeopardizing the financial solvency of the system, the board shall suspend these provisions redetermining allowance amounts after retirement for such periods of time as the board deems appropriate.

70.661. 1. If a member with five or more years of credited service dies before retirement while

an employee, the [applicable] benefits provided in subsections 2, 3, [and] 4 **and 5** of this section shall be paid, [subject to the provisions of section 70.685] **as applicable**.

2. (1) [His] **The** surviving spouse [with whom he was living and] to whom [he] **the member** was married for not less than two years immediately preceding the time of [his] **the member's** death shall receive an allowance computed in the same manner in all respects as if such member had:

[(1)] (a) Retired **on the first day of the month following** the date of his **or her** death with an allowance for life based upon [his] **the member's** credited service and final average salary to time of death and without reduction if [his] **the member's** age was younger than [his] **the member's** minimum service retirement age;

[(2)] (b) Elected option A provided for in section 70.660; and

[(3)] (c) Nominated such spouse as joint beneficiary under such option. [If such spouse had not attained age forty at the time of the member's death, such spouse allowance shall be payable for the remaining life of such spouse, but in no event for more than one hundred twenty months.]

(2) **If the board finds that the member's death was the result of an accident that did not arise out of and in the course of his or her actual performance of duty as an employee, the requirement that the surviving spouse must have been married to the member for not less than two years immediately preceding the time of the member's death shall not apply.**

3. **If the board finds that the member's death was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee, then:**

(1) **Other provisions of law to the contrary notwithstanding, for the purpose of computing the amount of the allowance payable under this section and for the purpose of determining eligibility under subsection 1 of this section, credited service shall include the period from the date of the member's death to the date he or she would have attained age sixty, or the date he or she would have acquired five years of credited service, if later; and**

(2) **In order to be eligible for spouse benefits, the surviving spouse and the deceased member must have been married on the date of the personal injury resulting in the member's death or on the date of onset of the disease resulting in the member's death. In any case of question as to the date of onset of disease resulting in the member's death, the board shall decide the question.**

[3.] 4. **If a [spouse] benefit is not payable under the provisions of subsection 2 or 3 of this section, or when such [spouse] benefit has ceased to be payable, each dependent child of the deceased member, if any, shall receive an allowance of an equal share of sixty percent of an allowance computed in the same manner in all respects as if such deceased member had retired on the first day of the month following the date of his or her death with an allowance for life based upon [his] the member's credited service and final average salary to time of death and without reduction if [his] the member's age was younger than [his] the member's minimum service retirement age. A child shall be a dependent child until [his] the child's death or [his] marriage or [his] attainment of age eighteen, whichever occurs first; provided, the age eighteen maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school or college or university, but in no event beyond [his] attainment of age twenty-three; provided further, the age eighteen maximum shall be extended for any child who has been found totally incapacitated by a court of competent jurisdiction for as long as such incapacity exists. Upon a child ceasing to be a dependent child, his or her allowance shall terminate, and there shall be a**

redetermination of the amounts payable to any remaining dependent children.

[4.] **5.** In the event all **of** the allowances provided for in this section, payable on account of the death of a member, terminate before there has been paid an aggregate amount equal to [his] **the** accumulated contributions standing to [his] **the deceased member's** credit in the member's deposit fund at the time of [his] death, the difference between such accumulated contributions and such aggregate amount of allowance payments shall be paid to such person as [he] **the member** shall have nominated by written designation duly executed and filed with the board. If there be no such designated person surviving at termination, such difference shall be paid to the member's estate **or to the estate of the last beneficiary to whom benefits were paid.**

[5. For the purpose of computing the amount of the allowance payable under this section and for the purpose of determining eligibility pursuant to subsection 1 of this section, credited service shall be given for the period from the date of the member's death to the date he would have attained age sixty, if the board finds that the death was the natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty as an employee.]

70.675. 1. Should a member with five or more years of credited service cease to be a member, except by death or retirement, before attaining an age which is within five years of his or her minimum service retirement age, the member shall be entitled to a deferred allowance provided for in this section; provided, if the [retirant] **formermember** withdraws [the member's] **his or her** accumulated contributions from the members deposit fund, for purposes of this section there shall be eliminated from credited service any membership service or prior service for which the member was required to make member contributions provided for in subsection 2 of section 70.705. Such deferred allowance shall commence as of the first day of the calendar month next following the later of:

(1) The member's attainment of an age which is within five years of his or her minimum service retirement age; or

(2) The date the member's written application therefor is received by the board, in accordance with the provisions of subsection 2 of this section. The member shall have the right to elect an option provided for in section 70.660 at the time of filing such written application.

2. Except as provided in subsection 5 of this section, a former member otherwise entitled to a deferred allowance shall be entitled to a deferred allowance only if the former member lives to an age which is within five years of his or her minimum service retirement age and if written application therefor is received by the board from the former member not earlier than ninety days before his or her attainment of such age. If such former member does not live to retirement or in the event the former member becomes employed in a position covered by the system before becoming a retirant or in the event such written application is not received by the board within the time limits specified, no benefits whatsoever shall be paid pursuant to the provisions of this section, except as provided in subsection 5 of this section.

3. A former member otherwise entitled to a deferred allowance shall be considered a member only for the purposes of subsection 4 of section 70.725.

4. If the deferred allowance commences prior to the date the former member reaches his or her minimum service retirement age, the allowance shall be a certain percent of the allowance otherwise provided for in this section. Such percent shall be one hundred percent reduced by one-half of one percent multiplied by the number of months by which the former member's age at the date the allowance commences is younger than the former member's minimum service retirement age.

5. If a former member who: (1) is entitled to a deferred allowance pursuant to this section; and (2)

does not receive a lump sum payment as provided in section 70.676, dies before his or her date of retirement, the applicable benefits, if any, provided in this subsection shall be paid. The former member's surviving spouse, if any, [with whom the former member was living and] to whom the former member was married for not less than two years immediately preceding the date of the former member's death shall receive an allowance computed in the same manner in all respects as if such former member had:

(1) Survived to the first day of the calendar month next following the day the former member would have attained his or her minimum service retirement age or if later, the first day of the calendar month next following the date of the former member's death;

(2) Retired on such day with an allowance for life based on his or her credited service and final average salary at the time of termination of membership;

(3) Elected option A provided for in section 70.660;

(4) Nominated such spouse as joint beneficiary under such option; and

(5) Died on such day after electing such option A.

The allowance payable to the surviving spouse shall commence as of the first day of the calendar month next following the day the former member would have attained his or her minimum service retirement age or, if later, the first day of the calendar month next following the date of the former member's death. [If such spouse had not attained age forty at the time of the former member's death, such spouse allowance shall commence on the date specified in this subsection and shall be payable for the remaining life of such spouse, but in no event for more than one hundred twenty months.] This subsection shall apply to any person who is a former member on or after August 28, 1998.

70.680. 1. Any member in service with five or more years of credited service who has not attained the age and service requirements of section 70.645 and who becomes totally and permanently physically or mentally incapacitated for his **or her** duty as an employee, as the result of a personal injury or disease, may be retired by the board upon written application filed with the board by or on behalf of the member; provided, that after a medical examination of such member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be selected by the board, one by or on behalf of such member, and the third by the first two physicians so named, the medical committee reports to the board, by majority opinion in writing, that such member is physically or mentally totally incapacitated for the further performance of duty, that such incapacity will probably be permanent and that such member should be retired.

2. Upon disability retirement, as provided in subsection 1 of this section, a member shall receive an allowance for life provided for in section 70.655 and shall have the right to elect an option provided for in section 70.660. His **or her** disability retirement and allowance shall be subject to the provisions of [subsections 5 and 6] **subsection 5** of this section and to the provisions of section 70.685.

3. Any member in service who becomes totally and permanently physically or mentally incapacitated for his **or her** duty as an employee, as the natural and proximate result of a personal injury or disease which the board finds to have arisen out of and in the course of his **or her** actual performance of duty as an employee, may be retired by the board upon written application filed with the board by or on behalf of the member; provided, that after a medical examination of such member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be selected by the board, one by or on behalf of such member, and the third by the first two physicians so named, the medical committee reports to the board, by majority opinion in writing, that such member is physically or mentally

totally incapacitated for the further performance of duty, that such incapacity will probably be permanent, and that such member should be retired.

4. Upon disability retirement as provided in subsection 3 of this section, a member shall receive an allowance for life provided for in section 70.655; provided, that for the sole purpose of computing the amount of such allowance, he **or she** shall be given credited service for the period from the date of his **or her** disability retirement to the date he **or she** would attain age sixty. He **or she** shall have the right to elect an option provided for in section 70.660. His **or her** disability retirement and allowance shall be subject to the provisions of [subsections 5 and 6] **subsection 5** of this section and to the provisions of section 70.685.

5. At least once each year during the first five years following a member's retirement on account of disability, and at least once in each three-year period thereafter, the board shall require any disability retirant who has not attained his **or her** minimum service retirement age to undergo a medical examination to be made by a physician designated by the board. If the retirant refuses to submit to medical examination in any such period, his **or her** disability allowance shall be suspended by the board until his **or her** withdrawal of such refusal. If such refusal continues for one year, all his **or her** rights in and to a disability allowance shall be revoked by the board. If, upon medical examination of the retirant, the physician reports to the board that the retirant is physically and mentally able and capable of resuming his **or her** duty as an employee in the position held by him **or her** at the time of his **or her** disability retirement, then the board shall, if demanded by the retirant, arrange a further medical examination of such member made by or under the direction of a medical committee consisting of three physicians, one of whom shall be selected by the board, one by or on behalf of the member, and the third by the first two physicians named. Should the medical committee concur, by majority opinion in writing to the board, the disability retirant is capable of resumption of duty, his **or her** disability retirement shall terminate and he **or she** shall be returned to duty and he **or she** shall immediately again become a member of the system, his **or her** credited service at the time of disability retirement shall be restored to his **or her** credit, and the amount of his accumulated contributions at the time of his **or her** disability retirement shall be restored to his **or her** credit in the members deposit fund. If he **or she** was in receipt of a duty disability allowance provided for in subsection 3 of this section, he **or she** shall also be given service credit for the period he **or she** was in receipt of the duty disability allowance.

[6. Should a disability retirant who has not attained his minimum service retirement age receive remuneration for his personal services rendered in any gainful occupation, then in no event shall the amount of his disability allowance exceed the difference between his final average salary and the total of the following amounts:

- (1) Such remuneration; and
- (2) The benefit, if any, payable from the federal Social Security Old Age, Survivors, and Disability Insurance Program on account of his disability.]

70.685. **1.** If [a death allowance is payable under the provisions of section 70.661, or if] a disability allowance is payable under the provisions of section 70.680, and if the [beneficiary or] retirant is also receiving workers' compensation **benefits** under any workers' compensation or similar law on account of the same [death or] disability, **or if the retirant is receiving remuneration for his or her personal services rendered in any gainful occupation or employment**, then in no event shall the amount of the system allowance payable until the member would have attained his **or her** minimum service retirement age exceed the difference between the member's final [average] **monthly** salary and the total

of the following amounts:

- (1) The **monthly** workers' compensation **benefit, if any**; and
- (2) The **monthly** benefit, if any, payable from the federal social security old age, survivors, and disability insurance program on account of the same [death or] disability; and
- (3) The portion of any **monthly** remuneration received by [such beneficiary] **the retirant for personal services rendered in any gainful occupation or employment** which is more than the amount of such **monthly** remuneration being received [by such person] at the time of the member's separation from service [or that portion received by such retirant for personal services rendered by him in any gainful occupation].

2. For purposes of this section, the member's final monthly salary shall mean the monthly average of compensation paid to the member during the most recent calendar year preceding the member's separation from service.

3. For purposes of this section, the "monthly remuneration being received at the time of the member's separation from service" shall mean one-twelfth of the member's remuneration for personal services rendered in any gainful occupation or employment not covered by the system during the most recent calendar year preceding the member's separation from service.

86.200. [1.] The following words and phrases as used in sections 86.200 to [86.363] **86.366**, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and credited to the member's individual account [in the members' savings fund], together with [regular] **members'** interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables **and interest assumptions** adopted by the board of trustees [and regular interest];

(3) "Average final compensation", the average earnable compensation of the member during the member's last three years of **creditable** service as a policeman, or if the member has had less than three years of **creditable** service, then the average earnable compensation of the member's entire period of **creditable** service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) ["Benefit reserve", the present value of all payments to be made on account of any retirement allowance or benefit in lieu of a retirement allowance granted under the provisions of sections 86.200 to 86.363 upon the basis of such mortality tables as shall be adopted by the board of trustees and regular interest;

(6) "Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

[(7)] **(6)** "Board of trustees", the board provided in sections 86.200 to [86.363] **86.366** to administer the retirement system;

[(8)] **(7)** "Creditable service", prior service plus membership service as provided in sections 86.200 to [86.363] **86.366**;

[(9)] **(8)** "DROP", the deferred retirement option plan provided for in section 86.251;

[(10)] **(9)** "Earnable compensation", the [regular compensation] **annual salary** which a member would earn during one year on the basis of the [stated compensation for the] member's rank or position[; except that] **as specified in the applicable salary matrix in section 84.160, RSMo, plus additional**

compensation for academic work as provided in subsection 9 of section 84.160, RSMo, plus shift differential as provided in subdivision (4) of subsection 10 of section 84.160, RSMo. Such amount shall be determined without regard to the member's deferrals to a deferred compensation plan pursuant to section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to section 125 of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to [86.363] **86.366** with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. If a member who is a noneligible participant is a highly compensated employee, as defined in section 414(q) of the Internal Revenue Code, and one of the ten persons paid the highest compensation by the employer for the plan year, the aggregate earnable compensation of the member's family members who are members, including only the member's spouse and lineal descendants who have not reached the age of nineteen years, shall not exceed the compensation limit of section 401(a)(17) of the Internal Revenue Code. For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

- (a) The last day of the plan year that includes the August 28, 1995; or
- (b) December 31, 1995;

[(11)] **(10)** "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

[(12)] **(11)** "Medical board", the board of physicians provided for in [sections 86.200 to 86.363] **section 86.237**;

[(13)] **(12)** "Member", a member of the retirement system as defined by sections 86.200 to [86.363] **86.366**;

[(14)] **(13)** "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;

[(15)] **(14)** "Plan year" or "limitation year", the twelve consecutive month period beginning each October first and ending each September thirtieth;

[(16)] **(15)** "Policeman" or "**police officer**", any [officer or employee of the police department of such cities employed by the board of police commissioners of such cities for police duty, and includes turnkeys, probationary patrolmen, patrolmen, corporals, sergeants, lieutenants, drill masters, captains, senior officers, and detectives, but does not include any police commissioner or anyone employed in a clerical or other capacity not involving police duties. In case of doubt as to whether any person is a policeman within the meaning of sections 86.200 to 86.363, the decision of the board of trustees shall be final] **member of the police force of such cities who holds a rank in such police force for which the annual salary is listed in section 84.160, RSMo**;

[(17)] **(16)** "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to [86.363] **86.366**;

[(18)] **(17)** "[Regular] **Members'** interest", interest **on accumulated contributions** at such rate

as may be set from time to time by the board of trustees;

[(19)] **(18)** "Retirement allowance", annual payments for life as provided by sections 86.200 to [86.363] **86.366** which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon retirement;

[(20)] **(19)** "Retirement system", the police retirement system of the cities as defined in sections 86.200 to [86.363] **86.366**;

[(21)] **(20)** "[Widow] **Surviving Spouse**", [unless the provisions of subsection 2 of this section apply, effective September 29, 1981, the term "widow" means] the surviving spouse of a member who was the member's spouse at the time of the member's death.

[2. In lieu of the definition of "widow" provided in subsection 1 of this section, upon the issuance of an opinion by the Missouri supreme court which would result in the state of Missouri being obligated or required to pay any additional benefits or compensation owed by any city as a result of the change made in such definition by the general assembly, even though such benefits or compensation are formally approved or authorized by the appropriate body of any city governed by sections 86.200 to 86.363, the term "widow" means the surviving spouse of a member who was the member's spouse at the time of the member's retirement or at the time of the member's death if the member dies before retirement; except that, effective January 1, 1982, "widow" means the surviving spouse, whether widow or widower, of a member who was the member's spouse at the time of the member's retirement or at the time of the member's death if the member dies before retirement.]

86.203. In [all cities of this state that now have or may hereafter attain a population of seven hundred thousand inhabitants or more, there are] **any city not within a county, there is** hereby created and established retirement systems as alternative systems to those which have been established under the provisions of sections 86.010 to 86.193. Each such system shall be under the management of a board of trustees hereinafter described and shall be known as "The Police Retirement System of (name of city)" and by such name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held. The retirement systems so created shall begin operation as of the first day of October, 1957.

86.207. 1. All persons who become policemen and all policemen who enter or reenter the service of the city after the first day of October, 1957, become members as a condition of their employment and shall receive no pensions or retirement allowance from any other pension or retirement system supported wholly or in part by the city or the state of Missouri, nor shall they be required to make contributions under any other pension or retirement system of the city or the state of Missouri, anything to the contrary notwithstanding.

2. [All policemen in service on the first day of October, 1957, become members of the retirement system as of that date unless prior thereto any policeman files with the board of trustees, on a form prescribed by such board, a notice of his election not to become a member of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to him on account of his participation in the retirement system.

3. Any policeman whose membership is contingent on his own election and who elects not to become a member may thereafter revoke his election and become a member, but with no credit for service prior to date of revocation, unless payment is made for adjustment in contributions retroactively to October 1, 1957, with interest thereon.

4.] If any member ceases to be in service for more than one year unless [he] **the member** has

attained the age of fifty-five or has twenty years or more of creditable service, or if [he] **the member** withdraws [his] **the member's** accumulated contributions or if [he] **the member** receives benefits under the retirement system or dies, [he] **the member** thereupon ceases to be a member; except in the case of a member who has served in the armed forces of the United States and has subsequently been reinstated as a policeman. **A member who is receiving retirement benefits under the system shall be considered a retired member.**

86.210. 1. Under such rules and regulations as the board of trustees shall adopt, each member who was a policeman on and prior to the date the retirement system becomes operative and who becomes a member within one year from such date and each member who was a policeman prior to reentering the service of the city as a policeman, shall file a detailed statement of all service as a policeman rendered by [him] **the member** prior to the date the retirement system becomes operative or prior to the date of [his] last becoming a member, for which [he] **the member** claims credit. If such member has withdrawn [his] **the member's** accumulated contributions prior to reentering said service, then [he] **the member** shall repay all such accumulated contributions plus the applicable [regular] **members'** interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service.

2. The board of trustees shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one month's duration during which the member was absent without pay.

3. Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board of trustees shall verify the service claims as soon as practicable after the filing of such statement of service.

4. Upon verification of the statements of service the board of trustees shall issue prior service certificates, certifying to each member the length of prior service with which [he] **the member** is credited on the basis of [his] **such member's** statement of service. So long as the holder of such a certificate continues to be a member, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member may, within one year from the date of issuance or modification of such certificate, request the board of trustees to modify or correct [his] **such** prior service certificate. When any policeman ceases to be a member, [his] **the former member's** prior service certificate shall become void. Should [he] **the former member** again become a member, [he] **the former member** shall enter the retirement system as a member not entitled to prior service credit except as provided in sections 86.200 to [86.363] **86.366**.

5. Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by [him] **the member** since [he] last [became] **becoming** a member and also if [he] **the member** has a prior service certificate which is in full force and effect, the amount of the service [certificate] **certified** on [his] **such** prior service certificate.

86.213. 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to [86.363] **86.366** are hereby vested in a board of trustees of ten persons. The board shall be constituted as follows:

(1) The president of the board of police commissioners of the city, ex officio. If the president is absent from any meeting of the board of trustees for any cause whatsoever, [he] **the president** may be represented by any member of the board of police commissioners who in such case shall have full power to act as a member of the board of trustees;

(2) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, [he] **the comptroller** may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act as a member of the said board of trustees;

(3) Three members to be appointed by the mayor of the city to serve for a term of two years;

(4) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(5) Two members who shall be retirees of the retirement system to be elected by the retirees of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve a total of four years in that capacity which shall be limited to no more than two consecutive terms.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time for a trustee shall not exceed [thirty] **twenty** days in any board fiscal year.

86.217. 1. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

2. The trustees shall serve without compensation, but they shall be reimbursed [from the expense fund] for all necessary expenses which they may incur through service on the board.

86.220. Each trustee shall, within ten days after his appointment or election, take an oath of office before the clerk of circuit court of said cities, that, so far as it devolves upon [him, he] **such trustee, the trustee** will diligently and honestly administer the affairs of the said board, and [that he] will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the [member] **trustee** making it and certified by the said clerk of circuit court and filed in [his] **the clerk's** office.

86.227. The board of trustees has exclusive original jurisdiction in all matters relating to or affecting the funds herein provided for, including, in addition to all other matters, all claims for annuities, benefits, refunds of pensions under this law, and its action, decision or determination in any matter is reviewable under chapter 536, RSMo, only, and any party to the proceedings has a right of appeal from the decision of the reviewing court. Subject to the limitations of sections 86.200 to [86.363] **86.366**, the board of trustees shall, from time to time, establish rules and regulations for the administration of [funds] **the retirement system** created by this law, for the transaction of its business and for the limitation of the time within which claims may be filed.

86.237. 1. The city counselor of the said cities shall be the legal adviser of the board of trustees.

2. The board of trustees shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of sections 86.200

to [86.363] **86.366**, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all the matters referred to it. **In addition, the board of trustees may appoint a fourth physician to act as an administrator of the medical board who may, with the consent of the board of trustees, select the members of the medical board and coordinate any reports to the board of trustees.**

86.240. [1.] The actuary shall be the technical adviser of board of trustees on matters regarding the operation of the [funds] **retirement system** created by sections 86.200 to [86.363] **86.366** and shall perform such other duties as are required in connection therewith.

[2. Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service and compensation experience of the members of the system as he shall recommend and the board of trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the board of trustees such tables and such rates as are required in section 86.243. The board of trustees shall adopt tables and certify rates of contribution to be used by the system. As soon as practicable after the establishment the actuary shall make a valuation of its assets and liabilities based upon such tables and rates of contribution as the board may adopt.]

86.243. [In the year 1933 and] At least once in each five-year period [thereafter] the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system and shall make a valuation of the assets and liabilities of the [funds of the] system and taking into account the results of such investigation and valuation the board of trustees shall:

(1) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary;

(2) Certify the rates of contribution payable by the said cities.

86.247. On the basis of such tables as the board of trustees shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the [funds of the] system created by sections 86.200 to [86.363] **86.366**.

86.248. All assets of the [fund] **retirement system**, including investment income, shall be retained for the exclusive benefit of members and their beneficiaries and shall be used to pay benefits or administrative expenses of the system and shall not revert to or inure to the benefit of any other person or entity prior to the termination of the [plan] **retirement system** established pursuant to sections 86.200 to [86.363] **86.366**, and the satisfaction of all benefit liabilities under such [plan] **retirement system**.

86.250. Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

(1) Any member may retire after completing twenty or more years of **creditable** service or [obtaining] **attaining** the age of fifty-five upon [his] **the member's** written application to the board of trustees setting forth at what time, but not more than ninety days subsequent to the execution and filing [therefor he] **of the application, the member** desires to be retired.

(2) Any member in service who has attained the age of sixty-five shall be retired forthwith provided that upon request of the board of police commissioners the board of trustees may permit such member to remain in service for periods of not to exceed one year from the date of the last request from the board of police commissioners.

86.251. 1. The board of trustees may develop and establish a deferred retirement option plan

(DROP) in which members eligible for retirement may participate. The DROP shall be designed to allow members with at least twenty years of **creditable** service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of **creditable** service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had retired shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's retirement. Cost-of-living increases, if any, for any period following the member's retirement shall be applied only to monthly service retirement payments made following retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or [widow's] **surviving spouse's** or dependents' benefits.

4. The member's [return of] contributions to the retirement system shall [continue to] be paid to the member or the member's [widow] **surviving spouse** pursuant to sections 86.253 and 86.288, within sixty days after the member's date of retirement and not the date of the conclusion of the member's participation in the DROP, unless such dates are the same.

5. A member shall cease participation in the DROP upon the earlier of the termination of the member's employment as a police officer or at the end of the five-year period commencing on the first day of the participation in the DROP. The member shall, upon the member's termination of employment, elect to receive the amount in the member's DROP account, including any accrued interest, in one of the following forms of payment:

(a) A lump sum payment; or
(b) Equal monthly installments over a ten-year period. Any interest earned pursuant to this section during the installment period shall be paid as soon as reasonably possible after the final monthly installment. Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

6. A member who has elected to participate in the DROP may not reenter the system in any fashion. At the conclusion of the member's participation in the DROP by reason of the expiration of the five-year period, if the member does not terminate the member's employment as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to [86.363] **86.366**, the member shall continue not to have any percentage of the member's salary deducted for a contribution nor shall any of the member's employment period count as creditable service.

7. If a member dies prior to termination of employment while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the funds in the member's DROP account, including any accumulated interest, shall be payable to the member's [widow] **surviving spouse**; or, if the member is then unmarried,

to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made within sixty days after the retirement system is notified of the member's death.

8. If a member has elected to participate in the DROP and during such participation period applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any [funds in] **portion of** a DROP account [which have] **that has** been forfeited as provided in this subsection shall [become funds] **be a general asset** of the system.

9. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the first day of each year, beginning with the second fiscal year of participation, the member's DROP account balance, determined as of the first day of such year, shall be credited with interest at the investment rate earned by the [fund] **assets of the retirement system** for the prior year. If distribution of the member's DROP account balance is completed during the year, interest shall be credited, based on the beginning balance for the year, in proportion to the part of the year preceding the date of final distribution. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.

10. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission, made in good faith in relation to the DROP or [funds of the] **assets credited to** DROP accounts.

11. The DROP established by this section is subject to approval by the Internal Revenue Service. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any DROP provision if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's [widow] **surviving spouse** or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's [widow] **surviving spouse** shall continue until the [widow's] **surviving spouse's** death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date payment begins. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date payment begins.

86.252. Notwithstanding any provision of sections 86.200 to [86.363] **86.366**, to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member retires. All distributions required pursuant to this section shall be determined and made in accordance with the income tax regulations under section 401(a)(9) of the Internal Revenue

Code, including the minimum distribution incidental benefit requirement of section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

- (1) The life of the member;
- (2) The life of the member and a designated beneficiary;
- (3) A period certain not extending beyond the life expectancy of the member; or
- (4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

86.253. 1. Upon retirement for service, a member shall receive a service retirement allowance which shall be **an amount** equal to [a fraction] **two percent** of the member's average final compensation multiplied by the number of years of the member's creditable service, [which fraction for the year of retirement is one-fiftieth] **up to twenty-five years**, plus an amount equal to four percent of the **member's** average final compensation for each [additional] year of **creditable** service [after] **in excess of** twenty-five years **but not in excess of thirty years**; plus an additional five percent **of the member's average final compensation** for any **creditable** service [after] **in excess of** thirty years[; but no]. **Notwithstanding the foregoing, the service retirement allowance of a member who does not earn any creditable service after August 11, 1999, shall not exceed an amount equal to seventy percent of the member's average final compensation, and the service retirement allowance of a member who earns creditable service on or after August 12, 1999, shall not exceed an amount equal to seventy-five percent of the member's average final compensation [or the amount already accrued by the member as of August 1, 1979, whichever is greater].**

2. If, at any time since first becoming a member of the retirement system, the member has served in the armed forces of the United States, [in any war or period of armed hostilities between the armed forces of the United States and those of a foreign power,] and has subsequently been reinstated as a policeman within ninety days after the member's discharge, the member shall be granted credit for such service as if the member's service in the police department of such city had not been interrupted by the member's induction into the armed forces of the United States. If earnable compensation is needed for such period in computation of benefits it shall be calculated on the basis of the compensation payable to the officers of the member's rank during the period of the member's absence. **Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the retirement system governed by sections 86.200 to 86.366 shall be operated and administered in accordance with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1984, as amended.**

3. The service retirement allowance of each present and future retired member who retired from service after attaining age fifty-five or after completing twenty years of **creditable** service shall be increased annually at a rate not to exceed three percent as approved by the board of trustees beginning with the first increase in the second October following the member's retirement and subsequent increases in each October thereafter, provided that each increase is subject to a determination by the board of trustees that the consumer price index (United States City Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at the date of determination; and provided further, that if the increase is in excess of the approved rate for any year, such excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to a maximum of three percent for each full year

from October following the member's retirement but not to exceed a total percentage increase of thirty percent. In no event shall the increase described under this subsection be applied to the amount, if any, paid to a member or [widow] **surviving spouse** of a deceased member for services as a special consultant under subsection 5 of this section or, if applicable, subsection 6 of this section. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below the member's initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease may be limited in amount by the initial benefit. [Any annuity or retirement allowance paid to a member under this subsection shall be withdrawn from the police retirement system and no moneys shall be withdrawn from the general revenue fund of any city governed by sections 86.200 to 86.363.]

4. In addition to any other [annuity or] retirement allowance payable under this section and section 86.250, a member, upon **service** retirement, shall be repaid the total amount of the member's contribution to the retirement system, without interest. The board shall pay the retired member such total amount of the member's contribution to the retirement system within sixty days after such retired member's date of retirement. [Any annuity or retirement allowance repaid to a member under this subsection shall be withdrawn from the police retirement system and no moneys shall be withdrawn from the general revenue fund of any city governed by sections 86.200 to 86.363.]

5. Any person who is receiving retirement benefits from the retirement system, upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, for the remainder of the person's life **or, in the case of a deceased member's surviving spouse, until the earlier of the person's death or remarriage**, and upon request of the board of trustees shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services [he or she] **the special consultant** shall be compensated monthly, in an amount which, when added to any monthly retirement benefits being received from the retirement system, [shall, unless the provisions of subsection 6 of this section apply,] **including any cost-of-living increases under subsection 3 of this section, shall** total six hundred fifty dollars a month[; except that a surviving spouse of a deceased member who is employed as a special consultant shall, unless the provisions of subsection 6 of this section apply, receive compensation for the person's services as a special consultant of not less than six hundred fifty dollars a month. This compensation shall be paid by the retirement system from funds of the retirement system, and]. This employment shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, notwithstanding any provisions of law to the contrary.

[6. The compensation granted retirees and surviving spouses of deceased members under subsection 5 of this section shall be decreased by one hundred fifty dollars per month upon the issuance of an opinion by the Missouri supreme court which would result in the state of Missouri being obligated or required to pay such additional one hundred fifty dollars per month even though such additional compensation is formally approved or authorized by the appropriate body of any city governed by sections 86.200 to 86.363.]

86.254. 1. Beginning July 1, 1994, in addition to any other annuity, benefits, or retirement allowance provided pursuant to sections 86.200 to [86.363] **86.366**, each present and future retired member after attaining the age of sixty years shall, upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as an advisor on the problems of retirement,

aging and other matters, for the remainder of the retired member's life, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required.

2. For the performance of duties required in subsection 1 of this section, each retired member employed as an advisor by the board of trustees shall be compensated monthly in an amount of ten dollars per month multiplied by the number of years the retired member is past the age of sixty years. The compensation provided by this subsection shall be adjusted annually. No funding shall be required prior to the effective date of this benefit.

3. Beginning October 1, 1999, in addition to any other benefit provided to any [widow] **surviving spouse** pursuant to sections 86.200 to [86.363] **86.366**, each present and future [widow] **surviving spouse** of a member after attaining the age of sixty years shall upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as an advisor on the problems of retirement, aging and other matters for the remainder of the [widow's] **surviving spouse's** life **or until the surviving spouse remarries, whichever is earlier**, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required.

4. For the performance of duties required in subsection 3 of this section, each [widow] **surviving spouse** of a member employed as an advisor by the board of trustees shall be compensated monthly in an amount of ten dollars per month multiplied by the number of years the [widow] **surviving spouse** is past the age of sixty years. The compensation provided by this subsection shall be adjusted annually.

86.255. 1. Notwithstanding any other provision of the plan established in sections 86.200 to [86.363] **86.366**, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a [widow] **surviving spouse** or a spouse;

(3) "Eligible retirement plan", an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under section 401(a)(9) of the Internal Revenue Code; or

(c) The portion of any distribution that is not includable in gross income.

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to sections 401(a) and 417 of the Internal

Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in **subsection 3 of this** section [86.252], provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

86.256. 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to [86.363] **86.366**, exceed the amount specified in Section 415(b) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. In no event shall the annual additions to the plan established pursuant to sections 86.200 to [86.363] **86.366**, on behalf of the member, including the member's own contributions, exceed the lesser of:

(1) Twenty-five percent of the member's compensation, as defined for purposes of Section 415(c) of the Internal Revenue Code; or

(2) Thirty thousand dollars, as adjusted for increases in the cost of living.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to [86.363] **86.366**, shall be reduced to the extent necessary to satisfy such limitations.

4. For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants in police and fire department plans, is incorporated in this section by reference.

86.257. Upon the application of a member in service or of the board of police commissioners, any member who has had ten or more years of creditable service shall be retired by the board of trustees, [not less than thirty and] not more than ninety days next following the date of filing such application on an ordinary disability retirement allowance; provided, that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

86.260. 1. Upon retirement for ordinary disability a member shall receive a service retirement allowance if the member has attained the age of fifty-five or completed twenty years of **creditable** service; otherwise the member shall receive an ordinary disability retirement allowance which shall be equal to ninety percent of the member's accrued service retirement in section 86.253, but not less than one-fourth of the member's average final compensation; provided, however, that no such allowance shall exceed ninety percent of the member's accrued service retirement benefit based on continuation of the member's **creditable** service to the age set out in section 86.250.

2. Effective October 1, 1999, the ordinary disability retirement allowance will be increased by fifteen percent of the member's average final compensation for each unmarried dependent child of the disabled member who is under the age of eighteen, or who, regardless of age, is totally and permanently mentally or physically disabled and incapacitated from engaging in gainful occupation sufficient to support himself or herself, but not in excess of a total of three children; provided, however, that the combined benefit shall not exceed seventy percent of such average final compensation.

3. Any member receiving benefits pursuant to the provisions of this section immediately prior to

October 1, 1999, shall upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the member is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member, but not in excess of a total of three children.

4. Any benefit payable to or for the benefit of a child or children under the age of eighteen years pursuant to the provisions of subsections 2 and 3 of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

5. No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen.

86.263. Upon application by the member or the board of police commissioners any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty [at some definite time and place] through no negligence on [his] **the member's** part, and if such accident occurred not more than five years prior to date of application unless the accident was reported and an examination made of the member by the medical staff of the board of police commissioners within five years of the date of the accident with subsequent examinations made as requested, shall be retired by the board of trustees provided that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired; provided that if the accident occurred prior to the age and year set out in section 86.250, application for benefits must be made before such [date] **age and year** except that the interval between date of accident and of application may be [at least] six months.

86.267. 1. Upon retirement for accidental disability, other than permanent total disability as defined in subsection 2, a member shall receive a retirement allowance of seventy-five percent of the member's average final compensation.

2. Any member who, as the natural and proximate result of an accident occurring in the actual performance of the member's duty [at some definite time and place] through no negligence on the member's part, is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever shall receive a retirement allowance as under subsection 1 or, in the discretion of the board of trustees, may receive a larger retirement allowance in an amount not exceeding the member's rate of compensation as a policeman in effect as of the date the allowance begins.

3. The board of trustees, in its discretion, may, in addition to the allowance granted in accordance with the provisions of subsections 1 and 2, grant an allowance in an amount to be determined by the board of trustees, to provide such member with surgical, medical and hospital care reasonably required after retirement, which are the result and in consequence of the accident causing such disability.

4. Any person who is receiving benefits pursuant to subsection 2 of this section on or after August 28, 1997, upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, and upon request of the board of trustees shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services the retired member shall be paid a lump sum payment in an amount equal to the total amount of [his] **the member's** contributions to the retirement system, without interest, within sixty days after approval of the retired member's application by the board of trustees. [Any annuity or retirement allowance paid to a retired member pursuant to this section shall be withdrawn from the police retirement system and no moneys shall be withdrawn from the general revenue fund of any city governed by sections 86.200 to 86.363.]

86.270. [Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may, and upon his application shall, require any disability beneficiary to undergo a medical examination, such examination to be made] **The board of trustees shall require each member who applies for disability benefits to undergo a medical examination** at a place designated by the medical board[.]. The examination [to] **shall** be made by the medical board or by a physician or physicians designated by such board. **Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period after that, the board of trustees may require any disabled member to undergo a medical examination.** Should any [disability beneficiary] **disabled member** refuse to submit to such medical examination, [his] **such member's disability** allowance may be discontinued until [his] **the** withdrawal of such refusal and should [his] **the** refusal continue for one year all rights in and to [his pension] **the member's disability allowance** may be revoked by the board of trustees.

86.277. Should a [disability beneficiary] **disabled member** be restored to active service [his retirement], **such member's disability** allowance shall cease[, he]. **The disabled member** shall again become a member and [he] shall contribute thereafter at the same rate [he paid] **in effect** prior to disability. Any prior service certificate on the basis of which [his] **the member's** service was computed at the time of [his] retirement shall be restored to full force and effect and in addition upon [his] **the member's** subsequent retirement [he], **the member** shall be credited with all [his] service as a member, and if [his] **the member's** then average final compensation is less than the average final compensation used in determining [his] **the member's disability [benefits] allowance**, the latter amount shall be used in determining benefits.

86.280. Upon the receipt of proper proofs of the death of a member in service and provided no other benefits are payable **under the retirement system**, there shall be paid the following benefits:

(1) Effective October 1, 1999, a pension to the [widow during the person's widowhood] **surviving spouse until the surviving spouse dies or remarries, whichever is earlier**, of forty percent of the deceased member's average final compensation plus fifteen percent of such compensation to, or for the benefit of, each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who, regardless of age, is totally and permanently mentally or physically disabled and incapacitated from engaging in gainful occupation sufficient to support himself or herself, but not in excess of a total of three children;

(2) Any [widow] **surviving spouse** or unmarried dependent child receiving benefits pursuant to the provisions of this section immediately prior to October 1, 1999, shall, upon application to the board

of trustees, be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the [widow] **surviving spouse** or unmarried dependent child is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, the [widow] **surviving spouse** shall receive additional monthly compensation in an amount equal to fifteen percent of the deceased member's [final] average **final** compensation, and there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member, but not in excess of a total of three children. The additional monthly compensation payable to a [widow] **surviving spouse** pursuant to this subdivision shall be adjusted for any cost-of-living increases that apply, pursuant to subdivision (8) of **this section [86.283]**, to the benefit the [widow] **surviving spouse** was receiving prior to October 1, 1999;

(3) If no [widow] **surviving spouse** benefits are payable pursuant to subdivisions (1) and (2) of this section, such total pension as would have been paid pursuant to subdivisions (1) and (2) of this section had there been a [widow] **surviving spouse** shall be divided among the unmarried dependent children under age eighteen and such unmarried dependent children, regardless of age, who are totally and permanently mentally or physically disabled and incapacitated from engaging in a gainful occupation sufficient to support themselves. The benefit shall be divided equally among the eligible dependent children, and the share of a child who is no longer eligible shall be divided equally among the remaining eligible dependent children; provided that not more than one-half of the [widow's] **surviving spouse's** benefit shall be paid for one child;

(4) If there is no [widow] **surviving spouse** or dependent children, the return of accumulated contributions to the designated beneficiary **as set forth in section 86.293**;

(5) No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen;

(6) Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the [widow] **surviving spouse** of the deceased member, such benefits may be paid to such [widow] **surviving spouse** for the child;

(7) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) to (3) of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years if the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university;

(8) The benefits payable pursuant to this section to the surviving spouse of a member who died in service after attaining the age of fifty-five or completing twenty years of creditable service shall be increased in the same percentages and pursuant to the same method as is provided in section 86.253 for adjustments in the service retirement allowance of a retired member.

86.283. Upon receipt of proper proofs of the death of a retired member who retired while in service, including retirement for service, ordinary disability or accidental disability, and provided no other benefits are payable **from the retirement system**, there shall be paid the following benefits:

(1) Effective October 1, 1999, a pension to the [widow during the person's widowhood] **surviving spouse until the surviving spouse dies or remarries, whichever is earlier**, of forty percent of the deceased member's average final compensation plus fifteen percent of such compensation to, or for the benefit of, each unmarried dependent child of the deceased member, who is either under the age eighteen, or who, regardless of age, is totally and permanently mentally or physically disabled and incapacitated from engaging in a gainful occupation sufficient to support himself or herself, but not in excess of three children;

(2) Any [widow] **surviving spouse** or unmarried dependent child receiving benefits pursuant to this section immediately prior to October 1, 1999, shall upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the [widow] **surviving spouse** or unmarried dependent child is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, a [widow] **surviving spouse** shall receive additional monthly compensation equal to the amount which when added to the benefits the [widow] **surviving spouse** was receiving pursuant to this section prior to October 1, 1999, determined without regard to any increase applied to such benefits prior to October 1, 1999, pursuant to subdivision (8) of this section, will increase the [widow's] **surviving spouse's** total monthly payment pursuant to this section to forty percent of the deceased member's [final] average **final** compensation, and there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member, but not in excess of a total of three children. The additional monthly compensation payable to a [widow] **surviving spouse** pursuant to this subdivision shall be adjusted for any cost-of-living increases that apply to the benefit the [widow] **surviving spouse** was receiving prior to October 1, 1999;

(3) If no [widow] **surviving spouse** benefits are payable pursuant to subdivisions (1) and (2) of this section, such total pension as would have been paid pursuant to subdivisions (1) and (2) of this section had there been a [widow] **surviving spouse**, determined without regard to any increase which would have applied to the [widow's] **surviving spouse's** benefits pursuant to subdivision (8) of this section, shall be divided among the unmarried dependent children under age eighteen and unmarried dependent children, regardless of age, who are totally and permanently mentally or physically disabled and incapacitated from engaging in a gainful occupation sufficient to support themselves. The benefit shall be divided equally among the eligible dependent children, and the share of a child who is no longer eligible shall be divided equally among the remaining eligible dependent children; provided that not more than one-half of the [widow's] **surviving spouse's** benefits shall be paid for one child;

(4) No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen;

(5) Whenever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the [widow] **surviving spouse** of the deceased member, such benefits may be paid to such [widow] **surviving spouse** for the child;

(6) In the event of the death of a retired member receiving accidental disability benefits before such benefits have been paid for five years, the member's [widow during the person's widowhood] **surviving spouse until the surviving spouse dies or remarries, whichever is earlier**, shall receive an additional

pension of ten percent of the deceased member's final average compensation;

(7) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) to (3) of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years if the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university;

(8) The benefits payable pursuant to this section to the [widow] **surviving spouse** of a retired member who received or was entitled to receive a service retirement allowance [or the widow of a member who died in service after attaining the age of fifty-five or completing twenty years of service] shall be increased in the same percentages and pursuant to the same method as is provided in section 86.253 for adjustments in the service retirement allowance of a retired member.

86.287. Upon the receipt by the board of trustees of evidence and proof that the death of a member was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of [all other] **the** benefits [the following benefits] **pursuant to sections 86.280 to 86.283:**

(1) Effective October 1, 1999, a pension to the [widow during the person's widowhood] **surviving spouse until the surviving spouse dies or remarries, whichever is earlier**, of seventy-five percent of the deceased member's average final compensation plus fifteen percent of such compensation to, or for the benefit of, each unmarried dependent child of the deceased member, who is either under the age of eighteen, or who, regardless of age, is totally and permanently disabled and incapacitated from engaging in a gainful occupation sufficient to support himself or herself, but not in excess of three children;

(2) Any [widow] **surviving spouse** or unmarried dependent child receiving benefits pursuant to this section immediately prior to October 1, 1999, shall upon application to the board of trustees, be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters while the [widow] **surviving spouse** or unmarried dependent child is receiving such benefits, and upon request of the board of trustees shall give opinions in writing or orally in response to such requests as may be required. Beginning October 1, 1999, for such services as may be required, a [widow] **surviving spouse** shall receive additional monthly compensation equal to the amount which when added to the benefits the [widow] **surviving spouse** was receiving pursuant to this section prior to October 1, 1999, will increase the [widow's] **surviving spouse's** total monthly benefit payment pursuant to this section to seventy-five percent of the deceased member's average final compensation, and there shall be payable an additional monthly compensation of one hundred dollars or five percent of the member's average final compensation, whichever is greater, for each unmarried dependent child of the member, but not in excess of a total of three children;

(3) If no [widow] **surviving spouse** benefits are payable pursuant to subdivisions (1) and (2) of this section, such total pension as would have been paid pursuant to subdivisions (1) and (2) of this section had there been a [widow] **surviving spouse**, shall be divided among the unmarried dependent children under age eighteen and such unmarried dependent children, regardless of age, who are totally and permanently disabled and incapacitated from engaging in a gainful occupation sufficient to support themselves. The benefit shall be divided equally among the eligible dependent children, and the share of

a child who is no longer eligible shall be divided equally among the remaining eligible dependent children; provided that not more than one-half of the [widow's] **surviving spouse's** benefit shall be paid for one child;

(4) If there is no [widow] **surviving spouse** or unmarried dependent children of either class mentioned in subdivision (3) of this section, then an amount equal to the [widow's] **surviving spouse's** benefit shall be paid to the member's dependent father or dependent mother to continue until remarriage or death;

(5) No benefits pursuant to this section shall be paid to a child over eighteen years of age who is totally and permanently disabled if such child is a patient or resident of a public-supported institution, nor shall such benefits be paid unless such disability occurred prior to such child reaching the age of eighteen;

(6) Wherever any dependent child designated by the board of trustees to receive benefits pursuant to this section is in the care of the [widow] **surviving spouse** of the deceased member, such benefits may be paid to such [widow] **surviving spouse** for the child;

(7) Any benefit payable to, or for the benefit of, a child or children under the age of eighteen years pursuant to subdivisions (1) to (3) of this section shall continue to be paid beyond the age of eighteen years through the age of twenty-two years in those cases where the child is a full-time student at a regularly accredited college, business school, nursing school, school for technical or vocational training, or university, but such extended benefit shall cease whenever the child ceases to be a student. A college or university shall be deemed to be regularly accredited which maintains membership in good standing in a national or regional accrediting agency recognized by any state college or university.

86.288. [1. Unless the provisions of subsection 2 of this section apply,] In addition to any other benefits payable, notwithstanding any provisions of sections 86.280 and 86.287 to the contrary, if a member dies while commissioned as a peace officer, or after retiring and before receiving a refund of [his] **the member's** contributions in accordance with section 86.253 or 86.290, or while receiving a disability retirement allowance in accordance with section 86.253 or 86.257, the total amount of the member's contribution to the retirement system shall be paid without interest to the [widow] **surviving spouse** of such member. Payment pursuant to this subsection shall be made within sixty days after the later of the date proper proofs of death are provided or August 28, 1994, regardless of when the member died or retired, provided that the [widow] **surviving spouse** shall be alive on the date that payment is made. [The amount shall be withdrawn from the retirement system and none of the amount shall be withdrawn from the general revenue fund of any city of seven hundred thousand or more inhabitants.

2. Upon the issuance of an opinion by the Missouri supreme court which would result in the state of Missouri being obligated or required to pay any additional benefits or compensation resulting from the general assembly's amendment of subsection 1 of this section, even though such additional benefits or compensation are formally approved or authorized by the appropriate body of any city governed by sections 86.200 to 86.363, subsection 1 of this section shall terminate and subsection 3 of this section shall become effective.

3. Upon the application of the provisions of subsection 2 of this section, in addition to any other benefits payable, notwithstanding any provisions of sections 86.280 and 86.287 to the contrary, there shall be paid to the widow of a member with twenty or more years of service who dies on or after January 1, 1982, and while commissioned as a policeman the total amount of the member's contribution to the retirement system, without interest, within sixty days after proper proofs of death are provided. The amount shall be withdrawn from the retirement system and none of the amount shall be withdrawn from the general

revenue fund of any city of seven hundred thousand or more inhabitants.]

86.290. Should a member cease to be a policeman except by death or retirement, [he shall be paid on demand] **the member may request payment of** the amount of [his] **the** accumulated contributions standing to the credit of [his] **the member's** individual account [in the members' savings fund, provided that if such a member has less than twenty years of creditable service his accumulated contributions], **including members' interest, in which event such amount** shall be paid to [him] **the member** not later than one year after [he] **the member** ceases to be a policeman. [If the board of trustees is unable to refund the contributions of a member or to commence payment of benefits within five years after such refund or benefits are otherwise first due and payable, the board may transfer the accumulated contributions to the benefit reserve fund. If, thereafter, proper application is made for refund or benefits, the board will allow them and make payment from the benefit reserve fund but no credit will be allowed for interest after the date his refund or benefits were first due and payable.] **If the former member is reemployed as a policeman before any portion of such former member's accumulated contributions is distributed, no distribution shall be made. If the former member is reemployed as a policeman after a portion of the former member's accumulated contributions is distributed, the amount remaining shall also be distributed.**

86.292. If the board of trustees is unable to refund the contributions of a member or to commence payment of benefits within five years after such refund or benefits are otherwise first due and payable, the accumulated contributions shall remain assets of the retirement system. If proper application is thereafter made for refund or benefits, the board shall make payment, but no credit shall be allowed for any interest after the date the refund or benefits were first due and payable.

86.293. If there are no further benefits otherwise payable under sections 86.200 to [86.363] **86.366** and the total amount of benefits paid to date is less than **an** amount equal to the accumulated contributions of the member at [his] death or [at his] retirement, whichever occurred first, the difference shall be paid to the beneficiary named to receive such amount or if no such beneficiary is living, to the beneficiary or the estate of the beneficiary last entitled to benefits.

86.297. Any amounts which may be paid or payable by the said cities under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any **temporary total disability, permanent total** disability or death shall be offset against and payable in lieu of any **periodic** benefits payable out of [funds provided by the said cities under the provisions of sections 86.200 to 86.363] **the retirement system** on account of the same disability or death. In case the present value of the total commuted benefits under said workers' compensation or similar law is less than the [pension reserve on] **actuarial equivalent of** the benefits otherwise payable from [funds provided by the said cities under sections 86.200 to 86.363] **the retirement system**, then the present value of the commuted payments shall be deducted from the [pension reserve] **actuarial equivalent of the benefits** and such benefits as may be provided by the [pension reserve] **retirement system** so reduced [shall be payable under the provisions of sections 86.200 to 86.363].

86.300. The board of trustees shall be the trustees of the [several funds] **assets of the retirement system** created by sections 86.200 to [86.363] **86.366** as provided in section 86.317 and shall have full power to invest and reinvest such [funds] **assets**, subject to all the terms, conditions, limitations and restrictions imposed by law upon life or casualty insurance companies in the state of Missouri in making and disposing of their investments; and subject to like terms, conditions, limitations and restrictions said trustees

shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which any of the [funds created herein] **assets** shall have been invested, as well as of the proceeds of said investments and any moneys belonging to [said funds] **the retirement system**.

86.303. The [board of trustees annually shall allow regular interest on the mean amount for the preceding year in each of the funds with the exception of the expense fund. The amount so allowed shall be due and payable to said funds and shall be annually credited thereto by the board of trustees from interest and other earnings on the moneys and other assets of the retirement system. From the regular interest allocated to the members' savings fund, the] board of trustees shall annually credit each member's individual account with interest on the largest balance remaining in each account for the entire year and at the **members' interest** rate determined by the board.

86.307. The treasurer of the [said] cities shall be the custodian of the [several funds. All payments from said funds shall be made by him] **assets of the retirement system. The treasurer shall make payments from such assets** only upon vouchers signed by two persons designated by the board of trustees. A duly attested copy of the resolution of the board of trustees designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as [his] authority for making payments upon such vouchers. No voucher shall be drawn unless it shall previously have been allowed by resolution of the board of trustees.

86.310. For the purpose of meeting disbursements for benefits and other payments there may be kept available cash not exceeding ten percent of the total [amount in the several funds] **assets** of the retirement system on deposit in one or more banks or trust companies in said cities, organized under the laws of the state of Missouri, or of the United States; provided, that the amount on deposit in any one bank or trust company shall not exceed twenty-five percent of the paid up capital and surplus of such bank or trust company.

86.313. Except as herein provided, no trustee and no employee of the board shall have any direct interest in the gains or profits of any investment made by the board of trustees, nor [as such] receive any pay or emolument for [his] **any services rendered as a trustee or employee**. No trustee or employee of the board of trustees shall directly or indirectly [for himself or as an agent] in any manner use the assets of the retirement system except to make such current and necessary payments as are authorized by the board of trustees, nor shall any trustee or employee of the board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board of trustees.

[86.317. All the assets of the retirement system shall be credited according to the purpose for which they are held to one of four funds; namely, the members' savings fund, the benefit reserve fund, the general reserve fund, and the expense fund.]

86.320. 1. [The members' savings fund shall be the fund in which shall be accumulated contributions at the rate of seven percent of the compensation of the members.

2.] The board of trustees shall certify to the board of police commissioners and the board of police commissioners shall cause to be deducted from the salary of each member on each and every payroll for each and every pay period, seven percent of the compensation of each member not participating in the DROP and zero percent of the compensation of each member participating in the DROP or after the conclusion of the member's participation in the DROP if the officer does not retire at that time.

[3.] 2. The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for in this section, and shall receipt for the member's full

salary or compensation and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by the payment except as to benefits provided by sections 86.200 to [86.363] **86.366**. The board of police commissioners shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees shall prescribe the amount deducted, and such amounts shall be paid into [such members' savings fund] **the system** and shall be credited together with [regular] **members'** interest thereon to the individual account of the member from whose compensation such deduction was made.

[4.] **3.** The board of trustees is authorized to grant additional benefits for such parts of contributions as were made prior to the adoption of the seven percent rate for all members which were in excess of the compulsory contributions required of each member.

[86.323. The benefit reserve fund shall be the fund from which shall be paid all benefits except such benefits as involve only the refund of the members' contributions at time of withdrawal in which case the refund shall be made direct from the members' savings fund. There shall be transferred to this fund at time of approval of payment of benefits to any member or beneficiary, the accumulated contributions of such member from the members' savings fund and such additional amount from the general reserve fund as is calculated by the actuary to be necessary with the member's contributions to provide the payment of all benefits arising from the service of such member. Upon the completion of the first valuation after the creation of this fund, there shall be transferred to it from the annuity reserve fund, the pension reserve fund and the pension accumulation fund such amounts as are certified by the actuary on the basis of the tables then in use for all beneficiaries receiving benefits.]

[86.327. 1. The general reserve fund shall be the fund in which shall be accumulated all reserves for benefits not provided by members' contributions, and which are provided by contributions made by the cities.

2. Contributions to and payments from the general reserve fund shall be as follows: On account of each member there shall be paid annually into the fund by the said cities an amount equal to a certain percentage of the earnable compensation of the member to be known as "the normal contribution" and an additional amount equal to a percentage of his earnable compensation to be known as "the accrued liability contribution". The rates percent of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuations.]

86.330. [On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of trustees,] **After each annual valuation**, the actuary engaged by the board to make [each] **the** valuation required by sections 86.200 to [86.363 during the period over which the accrued liability contribution is payable, immediately after making such valuation] **86.366**, shall determine the [uniform and constant percentage of the earnable compensation of the average new entrant, which, if contributed throughout his entire period of active service, would be sufficient to provide for the payment of any death benefit or pension payable on his account. The rate percent so determined shall be known as "the normal contribution rate". After the accrued liability contribution has ceased to be payable the] normal contribution rate. **The normal contribution rate** shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the [fund] **retirement system** the amount of the [funds] **assets** in hand to the credit of the [fund] **retirement system and the present value of expected future member contributions** and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of mortality and service tables **and interest**

assumptions adopted by the board of trustees [and regular interest. The normal rate of contribution shall be determined by the actuary after each valuation].

86.337. The total amount payable [in each year] to the [general reserve fund] **retirement system for each fiscal year** shall be not less than the [sum of the rates percent known as the] normal contribution rate [and the accrued liability contribution rate] of the total compensation earnable by all members during the year; provided, however, that the aggregate payment by the said cities shall be sufficient when combined with the [amount in the fund] **assets of the retirement system** to provide the pensions and other benefits payable [out of the fund] during the then current year. [The city may contribute at any time from bond issue or other available funds an amount equal to the unfunded accrued liability as certified by the actuary in which event no further accrued liability contribution will be required or any lesser amount which will be used to proportionately reduce future accrued liability contributions.]

86.340. The accrued liability contribution should be discontinued as soon as the accumulated reserve in the general reserve fund shall equal the present value, as actuarially computed and approved by the board of trustees, of the total liability of said fund, less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of persons who are at that time members. [The accrued liability contribution rate may be decreased by the board of trustees provided the reduced level rate does not require an amortization period extending beyond 2015.]

86.343. 1. The [expense fund shall be the fund to which shall be credited all money provided to pay the administration and operation expenses of the retirement system, except the] costs of special personal service, financial advisers, special consultants, and office supplies and equipment [the full cost of which] shall be borne by the board of trustees.

2. Annually the board of trustees shall estimate the amount of money necessary [to be paid into the expense fund during the ensuing year] to provide for the expense of the administration and operation of the retirement system **for the ensuing year**, excluding those items the cost of which the board is to bear pursuant to subsection 1. Fifty percent of the estimate shall be provided by the city and the remaining fifty percent shall be provided by the board of trustees from interest and other earnings on assets.

3. Annually, the board of trustees shall estimate the amount of money necessary to be paid into a board of trustees account during the ensuing year to provide for the expenses of the retirement system for the cost of special personal service, financial advisers, special consultants, and office supplies and equipment.

86.344. On or before the first day of March of each year the board of trustees shall certify to the board of estimate and apportionment of the city the amounts which will become due and payable during the year next following [to the general reserve fund and the expense fund] **for expenses pursuant to subsection 2 of section 86.343 and the cost of benefits as determined pursuant to section 86.337**. The amounts so certified shall be appropriated by the city and transferred to the retirement system in equal payments in the first six months of the ensuing year.

86.350. The [creation and maintenance of reserves in the general reserve fund and the maintenance of benefit reserves as provided for and the] payment of **the cost of providing** all benefits granted under the provisions of sections 86.200 to [86.363] **86.366, as determined pursuant to section 86.337, and the payment of** fifty percent of all expenses **described in subsection 2 of section 86.343** incurred in connection with the administration and operation of the retirement system are hereby made obligations of the [said] cities.

86.353. The right of any person to a benefit, any other right accrued or accruing to any person under the provisions of sections 86.200 to [86.363] **86.366** and the moneys [in the various funds] created [under] **pursuant to** sections 86.200 to [86.363] **86.366** are exempt from any tax of the state of Missouri and are not subject to execution, garnishment, attachment or any other process whatsoever and are unassignable except as in sections 86.200 to [86.363] **86.366** specifically provided. **Notwithstanding the foregoing, nothing in this section shall prevent the board of trustees from honoring the terms of a court order requiring the retirement system to pay all or any portion of the retirement benefit otherwise payable to a retired or disabled member to a third party to satisfy the member's obligation to pay child support or maintenance.**

86.354. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age [(age sixty-five)] **of the earlier of age fifty-five or completion of twenty years of creditable service** or, if earlier, and to the extent funded, upon the termination of the plan established pursuant to sections 86.200 to [86.363] **86.366**. Forfeitures of any nature under such plan shall not be used to increase the benefits of any member, but shall be used to reduce the city's contributions pursuant to section 86.243.

86.357. 1. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of this state.

2. Should any change or error in records result in any member or beneficiary receiving from the retirement system more or less than [he] would have been [entitled to receive] **payable** had the records been correct, the board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

86.360. The board of trustees provided for by section 86.213 is hereby authorized to consolidate, combine and transfer funds provided by sections 86.010 to 86.193 with the funds provided by sections 86.200 to [86.363] **86.366** in such a manner as will simplify the operations of the two systems. The accounts of all members of the two systems will be in the members' savings fund, and the pension accumulation fund will be in the general reserve fund. Separate records shall be maintained only to the extent necessary to determine and pay the benefits provided by sections 86.010 to 86.193 for those policemen electing not to become members of the retirement system provided by sections 86.200 to [86.363] **86.366**. The board of trustees may accept the membership records of the older system in lieu of the requirements in section 86.210. The board of trustees may authorize the use of the same actuarial assumptions and interest rate in the calculation of the contributions by the cities for both systems and the accrued liability rate may be a combined rate for both systems.

86.364. All provisions of [sections 86.200, 86.203, 86.207, 86.253, 86.288, 86.343, 86.344 and 86.364] **this chapter** which authorize the granting of additional benefits or compensation to beneficiaries shall terminate upon the issuance of an opinion by the Missouri supreme court which would result in the state of Missouri being obligated or required to pay any such additional benefits or compensation even though such additional benefits or compensation is formally approved or authorized by the appropriate body of the city.

86.365. Any person who served as a policeman for a period of thirty years and who retired prior to October 1, 1957, in the police department of any city having a population of over seven hundred

thousand, under the provisions of this chapter, shall, upon application to the police department of that city, be employed by the department as a special advisor and supervisor in connection with city police problems. Any person so employed shall perform such duties as the chief of police directs and shall receive a salary of one hundred dollars per month, payable out of the department budget pursuant to appropriations for the purpose; except that, the payment to the retired person for such services, together with the retirement benefits [he] **such retired person** receives under this chapter, shall not exceed two hundred dollars per month. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under any provision of this chapter.

86.366. 1. The board of trustees shall by rule adopt a program whereby, in addition to any [other annuity,] retirement allowance, or compensation paid or payable under sections 86.200 to [86.363] **86.366**, any [retirant] **retired member** under such sections who is receiving ordinary service retirement benefits and who has not received a lump sum payment equal to [his] **the retired member's** contributions, shall upon application to the retirement system of the city and approval of the application by the board of trustees be made a special advisor to the retirement system and shall be paid as compensation for [his] services as special advisor a lump sum payment in an amount equal to the total amount of [his] **the retired member's** contributions to the retirement system, without interest, in the manner provided in subsection 2.

2. Within ninety days of August 28, 1990, the board of trustees shall establish a system of processing and approving qualified applicants for appointment and payment under this section. Application for appointment for special advisor to the retirement system must be made within one hundred eighty days of August 28, 1990. All qualified applicants shall be deemed appointed as of the date of their application, and shall be paid within one year of August 28, 1990.

3. Any diminishment of the [funds] **assets** of the system resulting from the compensation paid the special advisors to the retirement system provided for in sections 86.200 to [86.363] **86.366** shall result in an increase in the funding requirement as computed under section 86.330 and made an obligation of the city under sections 86.344 and 86.350.

86.403. Each member of the retirement board shall be entitled to one vote in the decisions of the board. Five votes **or more in favor** shall be necessary [for] **to pass** a [decision] **motion** by the retirement board at any meeting of the board.

86.433. Any member [in service as a policeman for compensation or on authorized sick leave of not exceeding one year on June 15, 1946, or any member who shall enter service after that date,] may retire when [he] **such member** has completed twenty-five or more years of creditable service and, except as otherwise provided in this section, shall retire when [he] **such member** has completed thirty years of creditable service [and]. Upon such retirement [he] **such member** shall receive a pension equal to:

(1) Two **and one-half** percent of [his] **such member's** final compensation, as defined in section 86.370, multiplied by the number of years of [his] **such member's** creditable service **on or after August 28, 2000; and**

(2) Two percent of such member's final compensation multiplied by the number of years of creditable service prior to August 28, 2000.

Notwithstanding the provisions of subdivisions (1) and (2) of this section such member may elect to receive a pension equal to two and one-half percent of such member's final compensation multiplied by the member's total number years of creditable service upon payment by such

member to the retirement system on or before such member's date of retirement an amount equal to one percent of such member's aggregate compensation, as defined in section 86.370, for all such member's years of service in years prior to August 28, 2000. The pension so calculated for a member making such election and such payment shall be such member's base pension for all purposes pursuant to sections 86.370 to 86.497. Such pension shall be not less than [one] seven thousand two hundred dollars annually and in any event shall not exceed [sixty] **seventy-five** percent of the member's final compensation. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners on recommendation of the chief of police until [he] **such member** attains the age of sixty-five years. Contributions shall not be required of, and no service shall be credited to, any member [after] **for more than** thirty years of service.

86.437. Except as provided in section 86.443, any member in service [for compensation or on authorized sick leave of not exceeding one year on June 15, 1946, or who shall enter service after such date and] who shall have attained sixty years of age and at that time shall have completed at least [fifteen] **ten** but less than thirty years of creditable service, shall retire and shall receive an annual pension equal to:

(1) Two **and one-half** percent of [his] **such member's** final compensation as defined in section 86.370 multiplied by the number of years of [his] **such member's** creditable service **on or after August 28, 2000; and**

(2) Two percent of such member's final compensation multiplied by the number of years of creditable service prior to August 28, 2000.

Notwithstanding the provisions of subdivisions (1) and (2) of this section such member may elect to receive a pension equal to two and one-half percent of such member's final compensation multiplied by the member's total number years of creditable service upon payment by such member to the retirement system on or before such member's date of retirement an amount equal to one percent of such member's aggregate compensation, as defined in section 86.370, for all such member's years of service in years prior to August 28, 2000. The pension so calculated for a member making such election and such payment shall be such member's base pension for all purposes pursuant to sections 86.370 to 86.497. [In no event, however, shall he receive less than nine hundred dollars annually. Except as provided in section 86.443, any member who shall have attained sixty years of age and shall have completed ten years but less than fifteen years of creditable service shall retire and receive an annual pension equal to two percent of his final compensation as defined in section 86.370 multiplied by the number of years of his creditable service. In no event shall he receive less than five dollars per month for each year of his creditable service or six hundred dollars annually, whichever may be greater.]

86.440. Any member who retires after August 28, [1999] **2000**, who is entitled to a pension benefit pursuant to the provisions of sections 86.370 to 86.497 and who either has at least twenty-five years of creditable service or is retired as a result of an [accident] **injury** or illness occurring in the line of duty or course of employment pursuant to section 86.450, shall receive a pension benefit which, [when added to] **without including** any supplemental retirement benefits paid such member by this retirement system [and any cost-of-living adjustments to amounts otherwise payable by this system], shall be not less than six hundred dollars monthly. Any member who retires on or before August 28, [1999] **2000**, who is entitled to a pension benefit pursuant to the provisions of sections 86.370 to 86.497 and who either had at least twenty-five years of creditable service or was retired as a result of an [accident] **injury** or illness

occurring in the line of duty or course of employment pursuant to section 86.450, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services the member shall, beginning the later of August 28, [1999] **2000**, or the time of such appointment under this section, be compensated in [such] **an** amount [as shall make the aggregate benefits received by such member from this retirement system,] **which without** including [cost-of-living adjustments and] **any** supplemental retirement benefits provided by this system, [together with compensation paid pursuant to this section, equal to] **shall be** not less than six hundred dollars monthly. **A pension benefit pursuant to this section shall be paid in lieu of such member's base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this section shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the member's base pension and cost-of-living adjustments at such time as the total base pension and such adjustments exceed six hundred dollars monthly.**

86.441. 1. Any member who retires on a pension subsequent to August 13, 1972, may receive each year, beginning January 1, 1972, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of [his] **such member's** base pension during any one year provided that the retirement pension system shall remain actuarially sound.

2. Any member who was retired on August 13, 1972, may receive each year, beginning January 1, 1986, in addition to such member's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such base pension during any one year, provided that the retirement pension system shall remain actuarially sound.

3. If a member who has been retired and receiving a pension dies after September 28, 1987, the surviving spouse or children of such member entitled to receive a base pension pursuant to section 86.447 shall also receive a percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime pursuant to this section.

4. The cost-of-living adjustment shall be an increase or decrease computed on the base pension amount by [using the consumer price index to determine the percentage of increase or decrease] **the retirement board in an amount that the board, in its discretion, determines to be satisfactory**; but in no event shall the adjustment **be more than three percent** or reduce the pension to an amount less than the base pension. [The retirement board shall utilize the consumer price index for urban wage earners and clerical workers for Kansas City, Missouri, published by the Bureau of Labor Statistics, United States Department of Labor, in determining the percentage increment for such cost-of-living adjustment or, in the event such index is or becomes unavailable, the retirement board may select such other index as it in its discretion determines to be satisfactory.]

5. In determining and granting the cost-of-living adjustments, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse or children of a member who has died during the year prior to such adjustments.

6. As used in this cost-of-living adjustment section, the term "base pension" shall mean, when used

in connection with a member, the pension computed under the provisions of the law as of the date of retirement of the member without regard to cost-of-living adjustment and, when used in connection with a surviving spouse or children of a member, the pension computed under the provisions of the law as of the date of death of the member without regard to cost-of-living adjustment except as provided in section 86.447. For the purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to pension benefits from this retirement system [who has not remarried] and any children of the member who are entitled to receive part or all of the pension which would be received by a surviving spouse [who had not remarried or died] **if living**.

7. The determination of whether the retirement pension system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement pension system becomes actuarially unsound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement pension system would remain actuarially sound.

86.442. 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.370 to 86.497, shall receive each month, in addition to such member's base pension, a supplemental retirement benefit in the amount of fifty dollars per month, for assistance in meeting hospitalization and medical care costs or other expenses. Any member who receives such a supplemental retirement benefit may also receive not more frequently than annually, in addition to a base pension, as may be adjusted pursuant to section 86.441, and supplemental retirement benefit, a cost-of-living adjustment to the supplemental retirement benefit, in monthly adjustment increments to be determined by the retirement board. Such determination shall be based on advice of the plan's actuary, that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the [last] **most recent** annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated contributions to the trust fund.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be made, constituted, appointed and employed by the retirement board as a special consultant on the problems of retirement, aging and other matters, for the remainder of such member's life, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services such member shall be compensated monthly, in addition to a base pension, in the amount of fifty dollars per month. This employment shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.370 to 86.497, or in any way have the effect of reducing retirement benefits otherwise payable to such member. Any member who receives such monthly compensation as a special consultant to the retirement board may also receive not more frequently than annually, beginning in 1992, in addition to such member's base pension, as may be adjusted pursuant to section 86.441, and monthly compensation as a special consultant to the retirement board, a cost-of-living adjustment to such monthly compensation, in monthly adjustment increments to be determined by the retirement board. Such determination shall be based on advice of the plan's actuary, that the increase in the benefit will not cause the present value of anticipated future plan benefits calculated on the actuarial assumptions used for the [last] **most recent** annual valuation, to exceed the sum of the trust fund assets plus the present value of anticipated future contributions to the trust fund.

3. In determining and granting cost-of-living adjustments under this section, the retirement board

shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse of a member who has died during the year prior to such adjustments.

4. For the purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse [who has not remarried] **entitled to a pension benefit pursuant to sections 86.370 to 86.497**, but shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse [who had not remarried or died] **if living**. In determining whether the rights of any such surviving spouse are provided under subsection 1 or under subsection 2 of this section, the surviving spouse shall be deemed to have the date of retirement of the member of whom such person is the surviving spouse, **except that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits pursuant to subsection 2 of this section, and except further that no benefits shall be payable pursuant to this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried prior to August 28, 2000.** Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment hereunder prior to such member's death.

5. The determination of whether the retirement pension system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement pension system becomes actuarially unsound, supplemental retirement benefit payments under subsection 1 of this section, and monthly compensation payments as a special consultant to the retirement board under subsection 2 of this section shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement pension system would remain actuarially sound.

86.447. 1. Upon receipt of the proper proofs of death of a member in service for any reason whatever or of the death of a member after having been retired and pensioned, there shall be paid, in addition to all other benefits, the following:

(1) If a member dies while in service, such member's surviving spouse, if any, shall be paid a base pension equal to forty percent of the final compensation of such member, subject to subsequent adjustments, if any, as provided in section 86.441;

(2) If a member retires or terminates service after August 28, 1999, and dies after commencement of benefits pursuant to the provisions of sections 86.370 to 86.497, the member's surviving spouse, if any, shall be paid a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(3) If a member retired or terminated service on or before August 28, 1999, and died after August 28, 1999, and after commencement of benefits, such member's surviving spouse shall upon application to

the retirement board, be appointed and employed by the retirement board a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be compensated in such amount as shall make the benefits received by such surviving spouse pursuant to this subsection equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.441;

(4) [For] **Upon the death of** any member who [retires or terminates] **is in** service after August 28, [1999] **2000**, and who either had at least twenty-five years of creditable service or was retired **or died** as a result of an [accident] **injury** or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse's benefit provided pursuant to this subsection, [when added to] **without including** any supplemental retirement benefits paid such surviving spouse by this retirement system [and any cost-of-living adjustments to amounts otherwise payable by the retirement system], shall not be less than six hundred dollars per month. For any member who **dies**, retires or terminates service on or before August 28, [1999] **2000**, and who either had at least twenty-five years of creditable service or was retired **or died** as a result of an [accident] **injury** or illness occurring in the line of duty or course of employment pursuant to section 86.450, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, the surviving spouse, shall, beginning the later of August 28, [1999] **2000**, or the time the appointment is made pursuant to this subsection, be compensated in [such] **an** amount [as shall make the aggregate benefits received by such surviving spouse from this retirement,] **which without** including [cost-of-living adjustments and] supplemental retirement benefits provided by this system, [together with compensation paid pursuant to this section, equal to] **shall be** not less than six hundred dollars [per month] **monthly. A pension benefit pursuant to this subdivision shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted pursuant to section 86.441. The benefit pursuant to this subdivision shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly;**

(5) Such member's child or children under the age of eighteen years at the time of the member's decease, shall be paid fifty dollars per month each, subject to adjustments, if any, as provided in section 86.441, until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments hereunder for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided. Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen;

(6) A funeral benefit of one thousand dollars.

2. For the purposes of this section, "commencement of benefits" shall begin, for any benefit, at such time as all requirements have been met entitling the member to a payment of such benefit at the next following payment date, disregarding advance notice periods required by any paying agent for physical preparation of the payment, so that a member who dies between the date all such requirements are met and the date when the system would have delivered such member's initial payment shall be deemed to have commenced such benefit.

3. If there is no person qualified to receive a pension as a surviving spouse or if a surviving spouse [remarries or] dies, the total amount which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of [the remarriage or] death of such surviving spouse shall be added to the amounts received by and shall be divided among the children under the age of eighteen years and the incapacitated children in equal shares. As each child attains the age of eighteen years or has [his] **such** incapacity removed, the total of the surviving spouse's pension shall then be added to and divided among the remaining children, and when there is only one child under the age of eighteen years or incapacitated, whether such child is the sole surviving child of the member or the youngest child of several children, the total amount of the surviving spouse's pension shall be paid to the child until [he] **such child** reaches the age of eighteen years or [his] **such** incapacity is removed.

4. (1) **The surviving spouse of a member who retired or died prior to August 28, 1997, shall not be entitled to receive benefits or the payment of a pension pursuant to sections 86.370 to 86.497 unless marriage to the member occurred at least two years before the member's retirement or at least two years before the death of the member while in service; provided, that no benefits shall be denied pursuant to this subsection to the surviving spouse of a member whose death occurred in the line of duty or from an occupational disease arising out of and in the course of the member's employment.**

(2) **No surviving spouse of a member who retired or died while in service after August 28, 1997, and before August 28, 2000, shall be entitled to receive any benefits pursuant to this section unless such spouse was married to the member at the time of the member's retirement or death while in service.** [All benefits provided pursuant to this section for an eligible surviving spouse shall terminate upon remarriage of such surviving spouse.]

(3) **Any surviving spouse who would qualify for benefits pursuant to subdivision (1) or (2) of this subsection and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.370 to 86.497 in the absence of such remarriage.**

(4) **No surviving spouse of a member who retires or dies in service after August 28, 2000, shall be entitled to receive any benefits pursuant to sections 86.370 to 86.497 unless such spouse was married to the member at the time of the member's retirement or death in service. Any surviving spouse who was married to such a member at the time of the member's retirement or death in service shall be entitled to all benefits for surviving spouses pursuant to sections 86.370 to 86.497 for the life of such surviving spouse without regard to remarriage.**

5. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate.

6. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

86.483. 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.370 to 86.497. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the purposes of sections 86.370 to 86.497. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by a custodian in the name of the retirement system, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other properties. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited at least annually to the funds of the retirement system. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board. No order shall be drawn unless it shall have previously been allowed by resolution of the retirement board. **In the case of payments for services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board.** All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board

may contract with a bank or trust company to act as the custodian of the bonds and securities, in which case the retirement board may authorize its secretary and treasurer, jointly, to order purchases, loans or sales of investments by such custodian bank or trust company.

86.493. The right of any person to pension or pensions, to the return of contributions, disability or death benefits or any other right accrued or accruing to any person under the provisions of sections 86.370 to 86.497 and the moneys in the various funds created under sections 86.370 to 86.497 are hereby exempt from any tax of the state of Missouri or of any municipality or political subdivision thereof, and shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable except as specifically provided in sections 86.370 to 86.497, and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.370 to 86.497. **A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment, such as a request to apply some portion of a benefit payment to a medical insurance premium, shall not be deemed an assignment prohibited under this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.**

86.675. 1. Any member who is entitled to a pension under sections 86.600 to 86.790 may receive, in addition to [his] **such member's** base pension, a cost-of-living adjustment in an amount not to exceed three percent of [his] **such** base pension during any one year, provided that the retirement system shall remain actuarially sound. The determination of whether the retirement system will remain actuarially sound shall be made at the time such cost-of-living adjustment is granted. If at any time the retirement system becomes actuarially unsound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this subsection if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

2. The cost-of-living adjustment provided by this section shall be an increase or decrease computed on the base pension amount by [using the consumer price index to determine the percentage of increase or decrease; but in no event shall the adjustment reduce the pension to an amount less than the base pension. The retirement board shall utilize the consumer price index for urban wage earners and clerical workers for Kansas City, Missouri, published by the Bureau of Labor Statistics of the United States Department of Labor, in determining the percentage increment for such cost-of-living adjustment or, in the event such index is or becomes unavailable, the retirement board may select such other index as it] **the retirement board in an amount that the board**, in its discretion, determines to be satisfactory; **but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension.**

3. In determining and granting the cost-of-living adjustments provided by this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to members who have retired during the year prior to such adjustments but who have not been retired for one full year.

4. As used in this section, the term "base pension" shall mean the pension computed under the

provisions of the law as of the date of retirement of the member without regard to cost-of-living adjustment. As used in this section, the term "member" shall include:

- (1) A surviving spouse who has not remarried;
- (2) Any children of a member who are entitled to receive part or all of the pension which would be received by a surviving spouse who had not remarried or died; and
- (3) A surviving spouse (whether or not remarried) who is receiving an optional annuity pursuant to an election [under subdivision (2) of] **pursuant to** subsection [1] **2** of section 86.650.

86.730. 1. Each member of the retirement board shall be entitled to one vote in the decisions of the board. ~~[Four]~~ **Five** votes **or more in favor** shall be necessary ~~[for]~~ **to pass** a ~~[decision]~~ **motion** by the retirement board at any meeting of the board.

2. The retirement board shall keep in convenient form the data necessary for the administration of the retirement system. The retirement board shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually in pamphlet form a report prepared by certified public accountants showing the fiscal transactions of the retirement system for the preceding fiscal year, the status of assets and liabilities and the amount of cash on hand. One copy of the annual report shall be delivered to each member of the retirement system, one copy to each member of the retirement board, one copy shall be filed with the city clerk and one copy delivered to each member of the board of police commissioners. The retirement board shall cause an actuarial study and calculation to be made in 1968 based upon the experiences of the retirement system by an independent firm of pension actuaries and shall cause actuarial studies and calculations to be made each five years thereafter.

3. The retirement board shall before January tenth of each year certify to the chief financial officer of the city the amount to be paid by the city under the retirement pension system for the succeeding fiscal year.

4. The retirement board shall adopt a common seal. The retirement board may sue and be sued in its own name and the suits shall constitute suits by or against the members of the retirement board in their representative capacities and not as individuals.

86.750. 1. The retirement board shall act as trustee of the funds created by or collected pursuant to the provisions of sections 86.600 to 86.790. With appropriate safeguards against loss by the retirement system, the board may designate one or more banks or trust companies to serve as a depository of retirement system funds and intermediary in the investment of those funds and payment of system obligations. The board shall promptly deposit the funds with any such designated bank or trust company.

2. The retirement board shall have power, in the name and on behalf of the retirement pension system, to purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all property, rights, and securities, and enter into written contracts, all as may be necessary or proper to carry out the provisions of sections 86.600 to 86.790. No investment transaction authorized by the retirement board shall be handled by any company or firm in which a member of the board has an interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the retirement system, and any securities or other properties obtained by the retirement board may be held by the custodian in the name of the retirement system, or in the name of the nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties may be held by such custodian in bearer form or in book entry form. The retirement system is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the

uniform commercial code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of the retirement system are so deposited with the central depository system they may be merged and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

3. The income from investments shall be credited at least annually to the funds of the retirement system. All payments from the funds shall be made by the bank or trust company only upon orders signed by the secretary and treasurer of the retirement board. No order shall be drawn unless it shall have previously been allowed by resolution of the retirement board. **In the case of payments for services, supplies or similar items in the ordinary course of business, such board resolutions may be ongoing generalized authorizations, provided that each payment shall be reported to the board at its next following meeting and shall be subject to ratification and approval by the board.** All bonds or securities acquired and held by the retirement board shall be kept in a safe-deposit box, and access thereto shall be had only by the secretary and treasurer, jointly; except that, the retirement board may contract with a bank or trust company to act as a custodian of the bonds and securities, in which case the retirement board may authorize its secretary and treasurer, jointly, to order purchases, loans or sales of investments by such custodian bank or trust company.

86.770. All employer and member contributions or other payments to the retirement system and all income from investments shall be credited to the funds of the retirement system. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system. The payment of the benefits granted under the provisions of sections 86.600 to 86.790, and the expense in connection with the operation of the retirement system are hereby made obligations of the employer. All payments from the funds of the retirement system shall be made only upon voucher signed by two persons designated by the retirement board. No voucher shall be drawn unless it has been previously approved by the retirement board, **either specifically or on an ongoing generalized basis as permitted by subsection 3 of section 86.750.**

86.780. The right of any person to a benefit accruing under the provisions of sections 86.600 to 86.790 and to the moneys in the various funds created under sections 86.600 to 86.790 shall not be subject to execution, garnishment, attachment, or to any other process whatsoever and the right shall be unassignable except as specifically provided in sections 86.600 to 86.790 and except for court orders or assignments approved by a court to provide support for family members or a former spouse of any person entitled to benefits under sections 86.600 to 86.790. **A revocable request or authorization by a member or a beneficiary to withhold and apply for the requester's convenience some portion or all of a benefit payment, such as a request to apply some portion of a benefit payment to a medical insurance premium, shall not be deemed an assignment prohibited pursuant to this section provided that any such request shall remain revocable at all times except as to payments or withholdings effected prior to any such revocation. The retirement system may, but shall not be obligated to, comply with any such request.**

87.230. 1. Any widow who is receiving retirement benefits, upon application to the board of trustees of the retirement system, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging, and other state matters, [or] for the remainder of her life, and upon request of the board, give opinions, and be available to give opinions in writing, or orally, in response to such request, as may be required, and for such services shall be compensated monthly, in

an amount, which, when added to any monthly retirement benefits being received, shall not exceed fifty percent of the deceased member's average final compensation or [two hundred dollars] **seventy-five percent of the federal poverty level for a single person as set and updated by the United States Department of Health and Human Services or its successor agency**, whichever is greater.

2. This compensation shall be consolidated with any other retirement benefits payable to such widow, and shall be paid in the manner and from the same fund as her other retirement benefits under this chapter, and shall be treated in all aspects under the laws of this state as retirement benefits paid pursuant to this chapter.

3. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, anything to the contrary notwithstanding.

87.237. 1. Any person who served as a fireman and who is retired and receiving a retirement allowance of less than [three hundred and fifty dollars per month] **one hundred percent of the federal poverty level for a single person as set and updated by the United States Department of Health and Human Services or its successor agency** may act as a special advisor to the retirement system.

2. For the additional service as a special advisor, each retired person shall receive, in addition to the retirement allowance provided under this chapter, an additional amount, which amount, together with the retirement allowance he **or she** is receiving under other provisions of this chapter, shall equal, but not exceed, [three hundred fifty dollars per month] **one hundred percent of the federal poverty level for a single person as set and updated by the United States Department of Health and Human Services or its successor agency**. Any retirement allowance paid to a retiree under this subsection shall be withdrawn from the firemen's retirement and relief system fund and no moneys shall be withdrawn from the general revenue fund of any city not within a county.

104.090. 1. The normal annuity of a member shall equal one and [six-tenths] **seven-tenths** percent of the average compensation of the member multiplied by the number of years of creditable service of such member. In addition, the normal annuity of a uniformed member of the patrol shall be increased by thirty-three and one-third percent.

2. In addition, a uniformed member of the highway patrol who is retiring with a normal annuity after attaining normal retirement age shall receive an additional sum of ninety dollars per month as a contribution by the system until such member attains the age of sixty-five years, when such contribution shall cease. To qualify for the contribution provided in this subsection by the system, the retired uniformed member of the highway patrol is made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. Such additional contribution shall be reduced each month by such amount earned by the retired uniformed member of the highway patrol in gainful employment. In order to qualify for the additional contribution provided in this subsection, the retired uniformed member of the highway patrol shall have been:

(1) Hired by the Missouri state highway patrol prior to January 1, 1995; and

(2) Employed by the Missouri state highway patrol or receiving long-term disability or work-related disability benefits on the day before the effective date of the member's retirement.

3. In lieu of the annuity payable to the member pursuant to section 104.100, a member whose age at retirement is fifty or more may elect in the member's application for retirement to receive either:

Option 1. An actuarial reduction approved by the board of the member's annuity in reduced monthly payments for life during retirement with the provision that upon the member's death the reduced

annuity at date of death shall be continued throughout the life of, and be paid to, the member's spouse; or

Option 2. The member's normal annuity in regular monthly payments for life during retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's normal annuity at date of death shall be paid to the member's spouse in regular monthly payments for life; or

Option 3. An actuarial reduction approved by the board of normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member's having received one hundred twenty monthly payments of the member's reduced annuity, the member's reduced allowance to which the member would have been entitled had the member lived shall be paid for the remainder of the one hundred twenty-month period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no beneficiary surviving the retirant, the reserve for such allowance for the remainder of such one hundred twenty-month period shall be paid to the retirant's estate; or

Option 4. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received sixty monthly payments of the member's reduced annuity, the member's reduced allowance to which the member would have been entitled had the member lived shall be paid for the remainder of the sixty-month period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no beneficiary surviving the retirant, the reserve for such allowance for the remainder of such sixty-month period shall be paid to the retirant's estate.

4. The election may be made only in the application for retirement, and such application shall be filed at least thirty days, but not more than ninety days prior to the date on which the retirement of the member is to be effective, provided that if either the member or the spouse nominated to receive the survivorship payment dies before the effective date of retirement, the election shall not be effective. If after the reduced annuity commences, the spouse predeceases the retired member, the reduced annuity continues to the retired member during the member's lifetime.

104.110. 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and ~~six-tenths~~ **seven-tenths** percent of the employee's average compensation multiplied by the number of years of creditable service of the member.

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the

amount required by subsections 1, 2, 8 and 10 of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and 8 of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. Upon the completion of six months continuous service after reemployment, the member shall have the member's prior period of creditable service restored. Any subsequent determination of benefits due the member or the member's survivors shall be based on the sum of the member's creditable service accrued to the date the member's disability benefits commenced and the period of creditable service after the member's return to employment. Should the member again become disabled, retire, or terminate employment within the six-month period after the member's return to work, any benefits to which the member becomes entitled shall be based on the member's service and compensation to the date disability benefits originally began. There shall be no death benefits payable pursuant to section 104.090 or pursuant to section 104.140 if the employee dies within six months after the member's return to employment from disability. The provision of this subsection shall not apply to a person receiving disability benefits pursuant to subsection 2 of this section.

8. The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

9. Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

10. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section [104.130] **104.103.**

11. The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

12. Any member who qualified for disability benefits pursuant to subsection 2 or subsection 8 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

13. A member who continues to be disabled as provided in subsection 2 or subsection 8 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 8 of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and 8 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

14. Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

15. Any member receiving disability benefits pursuant to subsection 2 or subsection 8 of this section shall be eligible to receive death benefits pursuant to the provisions of section 104.095 or subsection 2 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection 1 of section 104.140.

104.371. 1. The normal annuity of a state official holding an elective state office, other than a member of the general assembly, shall be an amount equal to one and [six-tenths] **seven-tenths** percent of the average compensation of such elective or appointed officer multiplied by the number of years of creditable service of such elective or appointed officer; except that, if a member has held one or more statewide state elective offices for a total of at least twelve years, the member's normal annuity after September 28, 1983, shall be equal to fifty percent of the compensation provided by law at the time of retirement for the state officer of the highest office held, other provisions of law notwithstanding. The benefits shall be funded as provided in section 104.436.

2. Any member who has served in at least three full biennial assemblies as a member of the general assembly may elect to be credited with additional service as a state officer or employee for each year in which he or she served as a member of the general assembly with each full biennial assembly served counting as two years of service and each partial biennial assembly served counting as the pro rata portion of two years which is equal to the portion of the general assembly served.

3. Any member who terminated employment prior to August 28, 1994, who has served in at least three full biennial assemblies as a member of the general assembly, may upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the member's life. Upon request of the board, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation for such services, the consultant may elect to be credited with additional service as a statewide elected official or employee for each year in which he or she served as a member of the general assembly, with each full biennial assembly served counting as two years and each partial biennial assembly served counting as the pro rata portion of two years which is equal to the portion of the general assembly served.

4. Any elected statewide officer may retire after attaining fifty-five years of age and having had at least ten years of vesting service. In such case, such elected officer shall receive an annuity in an amount which is the actuarial reduction approved by the board of the normal annuity the member would have

received commencing at the earliest date on which the member is entitled to an unreduced benefit based on the member's creditable service at the date such member left office.

5. Any member who may retire as an elected statewide officer who has attained sixty years of age and has at least fifteen years of creditable service may retire with a normal annuity benefit.

6. Any member who may retire as an elected statewide elected officer shall be entitled to retire with a normal annuity if the sum of the member's age and creditable service equals eighty years or more and if the member is at least fifty years of age.

104.374. 1. The normal annuity of a member, other than a member of the general assembly or a member who served in an elective state office, shall be an amount equal to one and [six-tenths] **seven-tenths** percent of the average compensation of the member multiplied by the number of years of creditable service of the member. Years of membership service and twelfths of a year are to be used in calculating any annuity. Absences for sickness and injury of less than twelve months or for military service or training under subsection 2 of section 104.330 shall be counted as years of membership service.

2. In addition to the amount determined pursuant to subsection 1 of this section, the normal annuity of a uniformed member of the water patrol shall be increased by thirty-three and one-third percent of the benefit.

3. Employees who are fully vested at the age of sixty-five years and who continue to be employed by an agency covered under the system or members of the general assembly who serve in the general assembly after the age of sixty-five years shall have added to their normal annuity when they retire or die an amount equal to the total of all annual cost-of-living increases that the retired members of the system received during the years between when the employee or member of the general assembly reached sixty-five years of age and the year that the employee or member of the general assembly terminated employment or died. In no event shall the total increase in compensation granted under this subsection and subsection 2 of section 104.612 exceed sixty-five percent of the person's normal annuity calculated at the time of retirement or death.

160.420. 1. If a charter school offers to retain the services of an employee of a school district, and the employee accepts a position at the charter school, the contract between the charter school and the school district may provide that an employee at the employee's option may remain an employee of the district and the charter school shall pay to the district the district's full costs of salary and benefits provided to the employee. A teacher who accepts a position at a charter school and opts to remain an employee of the district retains such teacher's permanent teacher status and seniority rights in the district. The school district shall not be liable for any such employee's acts while an employee of the charter school.

2. A charter school may employ noncertificated instructional personnel; provided that no more than twenty percent of the full-time equivalent instructional staff positions at the school are filled by noncertificated personnel. All noncertified instructional personnel shall be supervised by certified instructional personnel. The charter school shall ensure that all instructional employees of the charter school have experience, training and skills appropriate to the instructional duties of the employee, and the charter school shall ensure that a criminal background check and child abuse registry check are conducted for each employee of the charter school prior to the hiring of the employee. Appropriate experience, training and skills of noncertificated instructional personnel shall be determined considering:

- (1) Teaching certificates issued by another state or states;
- (2) Certification by the National Standards Board;
- (3) College degrees in the appropriate field;

- (4) Evidence of technical training and competence when such is appropriate; and
- (5) Level of supervision and coordination with certificated instructional staff.

3. Personnel employed by the charter school shall participate in the retirement system of the school district in which the charter school is located, subject to the same terms, conditions, requirements and other provisions applicable to personnel employed by the school district. **For purposes of participating in the retirement system, the charter school shall be considered to be a public school within the school district and personnel employed by the charter school shall be public school employees. In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, personnel employed by the charter school shall continue to participate in the retirement system and shall do so on the same terms, conditions, requirements and other provisions as they participated prior to the lapse period.**

169.270. Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees;

(3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining whether years of service are "consecutive", only periods for which creditable service is earned shall be considered, and all other periods shall be disregarded;

(4) "Beneficiary", any person designated by a member for a retirement allowance or other benefit as provided by sections 169.270 to 169.400;

(5) "Board of education", the board of directors or corresponding board, by whatever name, having charge of the public schools of the school district in which the retirement system is established;

(6) "Board of trustees", the board provided for in section 169.291 to administer the retirement system;

(7) "Break in service", an occurrence when a regular employee ceases to be a regular employee for any reason (including termination of employment, resignation, retirement or furlough but not including vacation, sick leave, excused absence or leave of absence granted by an employer) and such person does not again become a regular employee until after fifteen consecutive school or work days have elapsed. A "school or work day" is a day on which the employee's employer requires (or if the position no longer exists, would require, based on past practice) employees having the former employee's last job description to report to their place of employment for any reason;

(8) **"Charter school", any charter school established pursuant to sections 160.400 to 160.420, RSMo, and located, at the time it is established, within the school district;**

(9) "Compensation", the regular compensation as shown on the salary and wage schedules of the employer plus any amounts paid by the employer on a member's behalf pursuant to subdivision (5) of subsection 1 of section 169.350, but such term is not to include extra pay, overtime pay, consideration for entering into early retirement, or any other payments not included on salary and wage schedules. For any year beginning after December 31, 1988, the annual compensation of each member taken into account under the retirement system shall not exceed the limitation set forth in Section 401(a)(17) of the Internal

Revenue Code of 1986, as amended;

[(9)] **(10)** "Creditable service", the amount of time that a regular employee is a member of the retirement system and makes contributions thereto in accordance with the provisions of sections 169.270 to 169.400;

(11) "Employee", any person who is classified by the school district, a charter school, the library district, or the retirement system established by section 169.280 as an employee of such employer and is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of said retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, whether or not the person is or may later be determined to be or to have been a common-law employee of such employer, including but not limited to persons classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.280 with respect to such employment;

[(10)] **(12)** "Employer", the school district, **a charter school**, the library district, or the retirement system established by section 169.280, or any combination thereof, as required by the context to identify the [common law] employer of any member, or, for purposes only of subsection 2 of section 169.324, of any retiree;

[(11)] **(13)** "Employer's board", the board of education, **the governing board of any charter school**, the board of trustees of the library district, the board of trustees, or any combination thereof, as required by the context to identify the governing body of an employer;

[(12)] **(14)** "Library district", any urban public library district created from or within a school district under the provisions of section 182.703, RSMo;

[(13)] **(15)** "Medical board", the board of physicians provided for in section 169.291;

[(14)] **(16)** "Member", any person who is a regular employee after the retirement system has been established hereunder ("active member"), and any person who (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance hereunder ("inactive member");

[(15)] **(17)** "Minimum normal retirement age", the earlier of the member attaining the age of sixty or has a total of at least seventy-five credits, with each year of creditable service, and prorated for fractional years, equal to one credit and each year of age, and prorated for fractional years, equal to one credit;

[(16)] **(18)** "Prior service", service prior to the date the system becomes operative which is creditable in accordance with the provisions of section 169.311. Prior service in excess of thirty-eight years shall be considered thirty-eight years;

[(17)] **(19)** "Regular employee", any [person employed by the school district, the library district, or the retirement system] **employee** who is assigned to an established position which requires [a] service of not less than five hours per day, five days per week, and not less than nine calendar months a year. Any regular employee who is subsequently assigned without break in service to a position demanding less service than is required of a regular employee shall continue the employee's status as a regular employee. However, a temporary, part-time or furloughed employee is not a regular employee;

[(18)] (20) "Retirant", a former member receiving a retirement allowance hereunder;

[(19)] (21) "Retirement allowance", annuity payments to a retirant or to such beneficiary as is entitled to same;

[(20)] (22) "School district", any school district in which a retirement system shall be established under section 169.280.

169.280. 1. In each school district of this state (i) that now has or may hereafter have a population of not more than seven hundred thousand and (ii) not less than seventy percent of whose population resides in a city other than a city not within a county which now has or may hereafter have a population of four hundred thousand or more, according to the latest United States decennial census, there is hereby created and established a retirement system for the purpose of providing retirement allowances and related benefits for employees of the employer. Each such system shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of (name of school district)", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. When a school district first satisfies the foregoing population conditions, the board of education shall adopt a resolution certifying the same and take all actions necessary to cause the retirement system to begin operation on the thirtieth day of September following such certification.

2. In the event that (i) the population of a school district having a retirement system created hereunder should increase to a number greater than seven hundred thousand, or (ii) the population of the city in which not less than seventy percent of the population of the school district resides should decrease to a number less than four hundred thousand, or (iii) less than seventy percent of the population of the school district should reside in a city having a population of at least four hundred thousand, **or (iv) the corporate organization of the school district shall lapse in accordance with subsections 1 and 4 of section 162.081, RSMo**, the retirement system of such school district shall continue to be governed by and subject to sections 169.270 to 169.400 and all other statutes, rules, and regulations applicable to retirement systems in school districts having a population of not more than seven hundred thousand and not less than seventy percent of whose population resides in a city, other than a city not within a county, of four hundred thousand or more, as if the population of such school district and city continued to be within such numerical limits.

169.291. 1. The general administration and the responsibility for the proper operation of the retirement system are hereby vested in a board of trustees of, **except as provided in subsection 3 of this section**, twelve persons who shall be resident taxpayers of the school district, as follows:

(1) Four trustees to be appointed for terms of four years by the board of education; provided, however, that the terms of office of the first four trustees so appointed shall begin immediately upon their appointment and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(2) Four trustees to be elected for terms of four years by and from the members of the retirement system; provided, however, that the terms of office of the first four trustees so elected shall begin immediately upon their election and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(3) The ninth trustee shall be the superintendent of schools of the school district;

(4) The tenth trustee shall be one retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 13, 1986, by the retirants of the retirement

system;

(5) The eleventh trustee shall be appointed for a term of four years beginning the first day of January immediately following August 13, 1990, by the board of trustees described in subdivision (3) of section 182.701, RSMo;

(6) The twelfth trustee shall be a retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 28, 1992, by the retirants of the retirement system.

2. If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that the board of trustees may appoint a qualified person to fill the vacancy in the office of an elected member until the next regular election at which time a member shall be elected for the unexpired term. **No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies.**

3. In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, the general administration and the responsibility for the proper operation of the retirement system shall continue to be vested in a twelve-person board of trustees who shall be resident taxpayers of the city of Kansas City, Missouri, and, in the event of vacancies occurring in the offices of the four trustees appointed, prior to the lapse, by the board of education and the office of trustee held, prior to the lapse, by the superintendent of schools of the school district, all as provided in subdivisions (1) and (3) of subsection 1 of this section, the board of trustees shall appoint a qualified person to fill each vacancy and subsequent vacancies in the office of trustees for terms of up to four years, as determined by the board of trustees.

[3.] 4. Each trustee shall, before assuming the duties of a trustee, take the oath of office before the court of the judicial circuit or one of the courts of the judicial circuit in which the school district is located that so far as it devolves upon the trustee, such trustee shall diligently and honestly administer the affairs of the board of trustees and that the trustee will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it and filed in the office of the clerk of the circuit court.

[4.] 5. Each trustee shall be entitled to one vote in the board of trustees. Seven trustees shall constitute a quorum at any meeting of the board of trustees. At any meeting of the board of trustees where a quorum is present, the vote of at least seven of the trustees in support of a motion, resolution or other matter is necessary to be the decision of the board.

[5.] 6. The board of trustees shall have exclusive original jurisdiction in all matters relating to or affecting the funds herein provided for, including, in addition to all other matters, all claims for benefits or refunds, and its action, decision or determination in any matter shall be reviewable in accordance with chapter 536, RSMo, or chapter 621, RSMo. Subject to the limitations of sections 169.270 to 169.400, the board of trustees shall, from time to time, establish rules and regulations for the administration of funds of the retirement system, for the transaction of its business, and for the limitation of the time within which claims may be filed.

[6.] 7. The trustees shall serve without compensation. The board of trustees shall elect from its membership a chairman and a vice chairman. The board of trustees shall appoint an executive director who shall serve as the administrative officer of the retirement system and as secretary to the board of trustees.

It shall employ one or more persons, firms or corporations experienced in the investment of moneys to serve as investment counsel to the board of trustees. The compensation of all persons engaged by the board of trustees and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve, and shall be paid from the investment income.

[7.] **8.** The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuations of the various funds of the retirement system and for checking the experience of the system.

[8.] **9.** The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall prepare annually and furnish to the board of education and to each member of the retirement system who so requests a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

[9.] **10.** The board of trustees shall have, in its own name, power to sue and to be sued, to enter into contracts, to own property, real and personal, and to convey the same; but the members of such board of trustees shall not be personally liable for obligations or liabilities of the board of trustees or of the retirement system.

[10.] **11.** The board of trustees shall arrange for necessary legal advice for the operation of the retirement system.

[11.] **12.** The board of trustees shall designate a medical board to be composed of three physicians who shall not be eligible for membership in the system and who shall pass upon all medical examinations required under the provisions of sections 169.270 to 169.400, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it.

[12.] **13.** The board of trustees shall designate an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement system and shall perform such other duties as are required in connection therewith. Such person shall be qualified as an actuary by membership as a Fellow of the Society of Actuaries or by similar objective standards.

[13.] **14.** At least once in each five-year period the actuary shall make an investigation into the actuarial experience of the members, retirants and beneficiaries of the retirement system and, taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such actuarial assumptions as the board of trustees deems necessary for the financial soundness of the retirement system.

[14.] **15.** On the basis of such actuarial assumptions as the board of trustees adopts, the actuary shall make annual valuations of the assets and liabilities of the funds of the retirement system.

[15.] **16.** The rate of contribution payable by the employer shall equal one and ninety-nine one-hundredths percent, effective July 1, 1993; three and ninety-nine one-hundredths percent, effective July 1, 1995; five and ninety-nine one-hundredths percent, effective July 1, 1996; seven and one-half percent effective January 1, 1999, and for all subsequent years.

17. In the event of a lapse of a school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, no retirement system, nor any of the assets

thereof, shall be transferred to or merged with another retirement system without prior approval of such transfer or merger by the board of trustees of the retirement system.

169.315. 1. The board of trustees shall adopt rules and regulations which shall permit members to purchase creditable service under the circumstances provided for in this section. Such rules and regulations shall specify, for each such designated circumstance:

- (1) The manner in which the employee contributions required to purchase such service shall be calculated;
- (2) The manner in which any employer contributions required for such service shall be calculated;
- (3) The maximum amount of service that may be purchased, if any;
- (4) The time by which the election to purchase service shall be made and the period over which such contributions shall be paid; and
- (5) Any other requirements the member must satisfy in order to be eligible to purchase service in such circumstance.

All such rules and regulations shall be applied on a uniform and nondiscriminatory basis so that all members are treated similarly under similar circumstances.

2. Any active member who ceased to be a regular employee and received a refund of contributions and interest attributable to a prior period of service with [the district in which the retirement system is established] **any employer** may, after reemployment as a regular employee and prior to retirement, elect to reinstate any creditable service the member forfeited by purchasing such service in accordance with the rules and regulations adopted by the board of trustees.

3. Any active member who has rendered service in a public school district or public library within the state of Missouri but outside of the district in which the retirement system is established, or in a college, junior college or university within the state of Missouri may elect to purchase and receive credit for such service in accordance with the rules and regulations adopted by the board of trustees.

4. Any active member who has rendered service in a public school district, public library, college, junior college or university outside the state of Missouri may elect to purchase and receive credit for such service in accordance with the rules and regulations adopted by the board of trustees; provided that, such member shall pay to the retirement system, in addition to all required employee contributions, the required amount of employer contributions, plus interest, for each year of creditable service being purchased.

5. Any active member who, prior to becoming a member, employed by a private school, college or university on a full-time basis and duly certified under the law governing the certification of teachers during all of such employment may elect to purchase and receive credit for such private school service in accordance with the rules and regulations adopted by the board of trustees; provided that, such member shall pay to the retirement system, in addition to all required employee contributions, the required amount of employer contributions, plus interest, for each year of creditable service being purchased. As used in this section, the term "private school" means a school which is not a part of the public school system of the state of Missouri and which charges tuition for the rendering of elementary, secondary educational or post-secondary educational services.

6. Any active member who, voluntarily or involuntarily, enters service in the armed forces of the United States or other national defense service may, after reemployment and prior to retirement, elect to purchase and receive credit for such military service in accordance with the rules and regulations adopted by the board of trustees and with the laws governing the reemployment rights of veterans.

7. Any active member who is granted a period of approved, unpaid leave of absence by the employer's board for academic study at a college, junior college, university or otherwise, illness or such other circumstances as may be authorized by the board of trustees, may elect to purchase and receive creditable service for such period of leave in accordance with the rules and regulations adopted by the board of trustees.

169.324. 1. The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member [retiring] **who retires as an active member** on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, [that provides for the foregoing formula for determining the annual service retirement allowance] shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993[, that provides for the foregoing formula for determining the annual service retirement allowance]. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections 169.580 and 169.585, a retirant may not receive a retirement allowance payment in any month for which such person receives remuneration from the person's employer **or from any other employer in the retirement system established by section 169.280** for the performance of services except such person may serve as a nonregular substitute, part-time or temporary employee for not to exceed [five] **six** hundred [thirty] hours in any school year without becoming a member and without having the person's retirement allowance discontinued. **If a retirant is reemployed by any employer in any capacity, whether pursuant to this section or section 169.580 or 169.585 or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the first retirement date shall not be changed by the person's reemployment. If the person again becomes a regular employee and earns additional benefits, upon the person's second retirement the person shall receive the same retirement allowance the person was receiving at the time of the person's first retirement date, under the same option elected as of the first retirement date, plus an additional retirement allowance determined using the benefit**

formula in effect on the person's second retirement date and the person's years of creditable service following reemployment and average final compensation as of the second retirement date, provided that the combined retirement allowance shall not exceed the greater of sixty percent of the person's average final compensation as of the second retirement date or the retirement allowance the person was receiving as of the first retirement date. Compensation earned prior to the person's first retirement date shall be considered in determining the person's average final compensation as of the second retirement date if such compensation would otherwise be included in determining the person's average final compensation.

3. The board of trustees shall determine annually whether the investment return on funds of the system can provide for an increase in benefits for retirants eligible for such increase. A retirant shall and will be eligible for an increase awarded pursuant to this section as of the fourth January following the date the retirant commenced receiving retirement benefits. Any such increase shall also apply to any monthly joint and survivor retirement allowance payable to such retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

(1) After determination by the actuary of the investment return for the preceding year as of December thirty-first (the "valuation year"), the actuary shall recommend to the board of trustees what portion of the investment return is available to provide such benefits increase, if any, and shall recommend the amount of such benefits increase, if any, to be implemented as of the first day of the thirteenth month following the end of the valuation year, and the first payable on or about the first day of the fourteenth month following the end of the valuation year. The actuary shall make such recommendations so as not to affect the financial soundness of the retirement system, recognizing the following safeguards:

(a) The retirement system's funded ratio as of January first of the year preceding the year of a proposed increase shall be at least one hundred percent after adjusting for the effect of the proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

(b) The actuarially required contribution rate, after adjusting for the effect of the proposed increase, may not exceed the statutory contribution rate;

(c) The actuary shall certify to the board of trustees that the proposed increase will not impair the actuarial soundness of the retirement system;

(d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding years;

(2) The board of trustees shall review the actuary's recommendation and report and shall, in their discretion, determine if any increase is prudent and, if so, shall determine the amount of increase to be awarded.

4. This section does not guarantee an annual increase to any retirant.

5. Notwithstanding anything contained in this section to the contrary, the amount of the annual service retirement allowance payable to any retirant pursuant to the provisions of sections 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section, shall at all times comply with the provisions and limitations of Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

6. All retirement systems established by the laws of the state of Missouri shall develop a procurement action plan for utilization of minority and women money managers, brokers and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

169.410. The following words and phrases as used in sections 169.410 to 169.540, unless a

different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and credited to the member's individual account together with interest allowed on such an account;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of interest and such mortality tables as shall be adopted by the board of trustees;

(3) "Average final compensation", the highest average annual compensation of the member received for any three consecutive years of service of the member's last ten years of service or if the member has had less than three years of such service, during the member's entire period of service;

(4) "Beneficiary", any person other than a retirant receiving a retirement allowance or optional retirement allowance or other benefit;

(5) "Board of education", the board of education or corresponding board having charge of the public schools of the school district other than those public schools which are operated by the board of regents;

(6) "Board of regents", the board of regents or corresponding board having charge of a public city teacher training school within the school district which was operated by its board of education prior to September 1, 1978;

(7) "Board of trustees", the board which administers the retirement system;

(8) **"Charter school", any charter school established pursuant to sections 160.400 to 160.420, RSMo, and located, at the time it is established, within the school district;**

(9) "Compensation", the regular compensation which a member has earned as an employee during any period, excluding, however, any compensation earned by a person who became a member after December 31, 1995, which is in excess of the limitation set forth in section 401(a)(17) of the Internal Revenue Code;

[(9)] (10) "Consumer price index", the consumer price index for all urban consumers for the United States, or its successor index, as approved by the board of trustees, as such index is defined and officially reported by the United States Department of Labor, or its successor agency;

[(10)] (11) "Creditable service", prior service plus membership service;

[(11)] (12) "Employee", any person regularly employed by (a) the board of education or (b) the board of trustees or (c) the board of regents who was employed at a public teacher training school within the school district prior to September 1, 1978, and who did not become a member of the Missouri state employees' retirement system pursuant to section 104.342, RSMo, **and any person who is classified by the school district, a charter school or the retirement system established by section 169.420 as an employee of such employer and who is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of such retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, regardless of whether the person is or may later be determined to be or to have been a common-law employee of such employer, including but not limited to persons classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.420 with respect to such employment. In case of doubt as to whether any person is an employee,**

the decision of the employing board shall be final and conclusive;

[(12)] (13) "Medical board", the board of physicians;

[(13)] (14) "Member", a member of the retirement system defined as an:

(a) "Active member", a member who is an employee; or

(b) "Inactive member", a member who is not an employee;

[(14)] (15) "Membership service", service rendered since last becoming a member which is creditable. For the purpose of computing creditable service at retirement, membership service shall include a member's accumulated and unused days of sick leave. The decision of the employing board as to the number of accumulated and unused days of sick leave held by a member shall be final and conclusive;

[(15)] (16) "Prior service", service prior to the date the system becomes operative which is creditable;

[(16)] (17) "Public school", any school for elementary, secondary or higher education, open and public, which is supported and maintained from public funds and which is operated by the board of education of the school district or by the board of regents, **or as a charter school as defined in sections 160.400 to 160.420, RSMo;**

[(17)] (18) "Retirant" or "retired member", a former member receiving a retirement allowance or optional retirement allowance or other benefit;

[(18)] (19) "Retirement allowance", equal monthly payments for life to a retirant or to such beneficiary as is entitled to the payments;

[(19)] (20) "Retirement system", the public school retirement school system of a school district;

[(20)] (21) "School administrator", an employee whose job classification is included on the school administrators' position schedule of the employing board;

[(21)] (22) "School district", any school district now having or hereafter attaining a population of seven hundred thousand inhabitants or more in which a retirement system shall be established;

[(22)] (23) "Teacher", any teacher, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, who shall teach or be employed on a full-time basis in the public schools of a school district, except those teachers electing to become a member of the Missouri state employees' retirement system pursuant to section 104.342, RSMo. In case of doubt as to whether any person is a teacher, the decision of the board of education, or the board of regents with respect to individuals within its charge, shall be final and conclusive.

169.569. 1. In accordance with the recommendations made pursuant to section 169.566, the public school retirement system of Missouri, the public school retirement system of the Kansas City school district, the public school retirement system of the St. Louis city school district and the nonteacher school employee retirement system of Missouri created pursuant to this chapter shall promulgate joint rules, which shall provide for the recognition of service toward retirement eligibility rendered by certified and noncertified personnel under any of the four systems. Such rules shall be limited to creditable service established with each system and shall in no event permit any transfer of creditable service or system assets.

2. Rules required pursuant to subsection 1 of this section shall be approved, and may be amended, by a majority of all of the trustees of each board of the four retirement systems. At least thirty days prior to the meeting of any board of one of the four retirement systems to vote on approving or amending such rules, a copy of the proposed rules or amendments shall be filed with the joint committee on public employee retirement.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

476.690. 1. Any judge who has become eligible to receive retirement compensation pursuant to section 476.520 and who has elected not to retire and has continued to serve as a judge after August 28, 1995, shall have added to the retirement compensation when the judge retires or dies an amount equal to the total of all annual cost-of-living increases that retired judges received between the time the judge first became eligible to retire and the year the judge actually retires or dies. In no event shall the total increase in compensation granted pursuant to this section and section 476.601 exceed sixty-five percent of the judge's retirement compensation calculated at the time of retirement or death.

2. Any judge who was eligible to retire on August 28, 1995, and elected to continue to serve as a judge after such date, but who retired before August 28, 1996, shall, upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the judge retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall have the retirement benefit recalculated from the date of the retirement, pursuant to the provisions of subsection 1 of this section.

3. Any judge who retired prior to August 28, 1995, and who is receiving judicial retirement compensation on September 1, 2000, shall upon application to the board of trustees of the Missouri state employees' retirement system, be made, constituted and appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the judge's life. Upon request of the board or the court from which the judge retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such request. As compensation for such services, the consultant shall have the consultant's retirement benefit recalculated as if subsection 1 of this section was in effect on the consultant's date of retirement. Any monthly benefit increases payable pursuant to this subsection shall become effective September 1, 2000. In no event shall the system make any retroactive compensation payments under this subsection.

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed one thousand dollars in value in the aggregate;

(2) Jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value four hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a

dependent of such person not to exceed two thousand dollars in value in the aggregate;

(5) Any motor vehicle, not to exceed one thousand dollars in value;

(6) Any mobile home used as the principal residence, not to exceed one thousand dollars in value;

(7) Any one or more unmaturred life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmaturred life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value five thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within six months prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed five hundred dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any similar plan described, defined, or established pursuant to section 456.072, RSMo, **the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions,** or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 USC 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any

participant or beneficiary in, a retirement plan which is qualified under Section 401(k), 403(a)(3), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended.

If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance, any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

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